No. 21941

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JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

United States Court of Appeals
For the
District of Columbia Circuit
FILED NOV 29 1957
Joseph W. Stewart
CLERK

No. 14,145

FRANK BREWSTER,

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Volume 1 of 2 vols.

Pages 1 to 264

UNITED STATES COURT OF APPEALS

For The District Of Columbia Circuit

No. 14,145

FRANK BREWSTER,

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

JOINT APPENDIX

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JOINT APPENDIX

[Filed in Open Court March 18, 1957]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Impanelled on February 28, 1957, Sworn in on March 5, 1957

UNITED STATES OF AMERICA	:	Criminal No. 289-57
v.	:	Grand Jury Original
FRANK W. BREWSTER	:	2 U.S.C. 192

The Grand Jury charges:

INTRODUCTION

The allegations of this introduction are adopted and incorporated into the Counts of this indictment which follow.

On January 19, 1947, in the District of Columbia, the Senate Permanent Subcommittee on Investigations, of the Committee on Government Operations of the United States Senate, was conducting hearings, pursuant to Public Law 601, Section 102(1)(g), 79th Congress, (60 Stat. 816), to Rule XXV (g) of the Standing Rules of the Senate, and to Senate Resolution 188, 84th Congress.

Defendant, Frank W. Brewster, President of Joint Council No. 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, and Chairman of Western Conference of Teamsters was duly summoned as a witness by the authority of the United States Senate of the Congress of the United States, through its aforesaid Subcommittee, to appear to testify and to produce before the said Subcommittee, in Washington, D. C., on December 27, 1956, certain papers upon the matter under inquiry before that Subcommittee; that is, by subpoena No. 3633, to produce the books and records of Joint Council No. 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements,

canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda, and minutes of meetings, and by subpoena No. 3632, to produce similarly described books and records of the Western Conference of Teamsters.

The date for the appearance of defendant before the said Subcommittee pursuant to the above summonses was subsequently postponed until January 16, 1957, and was continued to include January 19, 1957.

On January 19, 1957, defendant appeared as a witness before the said Subcommittee, holding hearings as alleged above. At that time and place:

COUNT ONE

Defendant unlawfully refused to answer the following question, which was pertinent to the question under inquiry: "Will you state your occupation, please, sir?"

COUNT TWO

Defendant wilfully failed and refused to identify certain documents including Subcommittee Exhibit No. 23, being documents upon the matter under inquiry before that Subcommittee, and thereby wilfully did make default.

COUNT THREE

Defendant wilfully failed and refused to examine the signature of a document, Exhibit No. 23, being a document upon the matter under inquiry before that Subcommittee, and thereby wilfully did make default.

COUNT FOUR

Defendant unlawfully refused to answer the following question, which was pertinent to the question under inquiry: "Do you state that the report made therein [meaning the document referred to in Count Three] with respect to the organization that it is reporting on is true, correct, or false?

The allegations of the above paragraph of this count are adopted

and incorporated into Counts Five, Six, Seven and Eight, which follow, which counts will, in addition, merely set forth the particular question refused of answer.

COUNT FIVE

"Mr. Brewster, do you believe that any committee of the Senate has a right to look into your activities, and, if so, which one?"

COUNT SIX

"Mr. Brewster, you are high in labor circles. You owe a duty to I do not know how many million people. Do you think they are entitled to know whether that is an accurate statement or not?"

COUNT SEVEN

"Mr. Brewster, do you not think that the laboring man, whose money you are accused of misappropriating, should know how the money is being spent, where it is going, whether accurate statements are being made or not? Do you not think he is entitled to that?"

COUNT EIGHT

"Do you take the position that a committee, charged with the duty of studying government at all levels to determine its efficiency and economy, has no authority to get testimony from you or other witnesses with respect to false and fraudulent statements they file with an agency of this Government in order to seek certain privileges granted under the law, by virtue of complying with the law to file such statements?"

COUNT NINE

Defendant wilfully failed and refused to examine a document filed with the U.S. Labor Department, dated October 3, 1952, being a document upon the matter under inquiry before that Subcommittee, and thereby wilfully did make default.

COUNT TEN

Defendant unlawfully refused to answer the following question, which was pertinent to the question under inquiry: "Is that a photostatic copy of your signature on that document? [Meaning the document referred to in Count Nine]"

The allegations of the above paragraph of this count are adopted and incorporated into Count Eleven, which follows, which count will, in addition, merely set forth the particular question refused of answer.

COUNT ELEVEN

"Is Mr. John J. Sweeney an officer in that organization, Mr. Brewster?"

COUNT TWELVE

Defendant willfully failed and refused to examine the documents comprising Subcommittee Exhibit No. 26, being documents upon the matter under inquiry before that Subcommittee and thereby wilfully did make default.

COUNT THIRTEEN

Defendant unlawfully refused to answer the following question, which was pertinent to the question under inquiry: "The Chair orders you to do it for the reasons he has stated, and I now order you to examine the signature on these documents and state whether that signature is a photostatic copy of your signature on the original documents filed with the Department of Labor.

The allegations of the above paragraph of this count are adopted and incorporated into Counts Fourteen, Fifteen, Sixteen, Seventeen, Eighteen, Nineteen, Twenty, Twenty-One, Twenty-Two, Twenty-Three, Twenty-Four, Twenty-Five, Twenty-Six, Twenty-Seven, which follow, which counts will, in addition, merely set forth the particular question refused of answer.

COUNT FOURTEEN

"I ask you to examine that telegram and state whether you received the original, of which it is a copy?"

COUNT FIFTEEN

"Is that a part of the policy of your organization?"

COUNT SIXTEEN

"On the question of these reports that you file; the reports that you file with the Department of Labor, as far as your compensation and allowances, did they concur with the reports that you filed with the

Internal Revenue Department?"

COUNT SEVENTEEN

"Is there, in fact, a discrepance in local 174 between what you filed with the Department of Labor and your income tax return for 1949?"

COUNT EIGHTEEN

"You have heard testimony here this morning that the labor organization to which you belong paid a part of the cost of construction of Dave Beck's home. Do you have any knowledge of that?"

COUNT NINETEEN

"There was a discrepancy in 1954?"

COUNT TWENTY

"Under the law, you know, Mr. Brewster, that it is the duty of the officials of the union to report in these financial statements the salary paid any official of the union, and all allowances he gets from the union where the amount exceeds $5,000; do you not?"

COUNT TWENTY-ONE

"Then if you or members, high officials, in your union, are reporting falsely with respect to the salaries they receive, and the allowances that they get above and in excess of $5,000, would you not regard that as a fraud upon the Government, and also a fraud against the men that you profess to represent as their officials in the labor organization?"

COUNT TWENTY-TWO

"Mr. Brewster, is it true that there was purchased for you out of union funds an automobile?"

COUNT TWENTY-THREE

"Were union funds used to pay for the operation and maintenance of your horse stables?"

COUNT TWENTY-FOUR

"Is it true that repairs and improvements were made to your horse vans and private cars out of union funds?"

COUNT TWENTY-FIVE

"Is it true, Mr. Brewster, that between the years 1943 and 1950 you received at least $30,000 in addition to your salary from local 174?"

COUNT TWENTY-SIX

"Do you think the honest laboring man is entitled to know where all the money he pays into the coffers goes, and how it is used?"

COUNT TWENTY-SEVEN

"Mr. Brewster, and I believe I asked you this question before, would you be willing now to tell what committee or what grand jury or what body you would go before and answer questions about the handling of union money?"

COUNT TWENTY-EIGHT

Defendant wilfully failed and refused to produce the papers called for in the aforesaid subpoena No. 3632, and thereby wilfully did make default.

COUNT TWENTY-NINE

Defendant wilfully failed and refused to produce the papers called for in the aforesaid subpoena No. 3633, and thereby wilfully did make default.

COUNT THIRTY

Defendant unlawfully refused to answer the following question, which was pertinent to the question under inquiry: "The chair orders and directs you to state whether you have any other reasons at this time for failing and refusing to answer these questions?"

The allegations of the above paragraph of this count are adpoted and incorporated into Count Thirty-One which follows, which count will, in addition, merely set forth the particular question refused of answer.

COUNT THIRTY-ONE

"On your receipt of the telegram which was presented to you a moment ago, did you vote for the international of the teamsters union to pledge itself not to take any disciplinary action against any of the

officers or agents of its local union in case they invoked the fifth amendment when asked whether or not they have embezzled and misappropriated the funds of their locals?"

/s/ Oliver Gasch

United States Attorney in and for the District of Columbia

A TRUE BILL:

/s/ (Illegible)

Foreman.

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2 Filed April 22, 1957]

MOTION TO DISMISS INDICTMENT AND TO TAKE JUDICIAL NOTICE OF CERTAIN RECORDS AND REPORTS OF CONGRESS

The defendant moves the Court to dismiss the Indictment on the following grounds:

1. The Indictment does not state facts sufficient to constitute an offense against the United States of America.

2. The application of Title 2 U.S.C., Sec. 192 to the defendant in this case is unconstitutional.

In connection with the consideration of the motion to dismiss, the defendant moves that the Court take Judicial Notice of (a) Hearings Before Permanent Subcommittee on Investigations of the Committee on Government Operations, U.S. Senate, 85th Cong., 1st Sess., (January 16, 1957), pp. 1-3; (b) Senate Resolution 92 and Senate Report 60 on said Resolution 92, 85th Cong., 1st Sess., (being part of the certification of failure to testify required by Title 2 U.S.C., Sec. 194); (c) Senate Resolutions 13, 14 and 74, 85th Cong., 1st Sess.; and (d) 103 Congressional Record (January 30, 1957) pps. 1136-1140, copies of which are annexed to the Memorandum of Points and Authorities filed in connection herewith.

DAWSON, GRIFFIN, PICKENS & BIRD

By /s/ John K. Pickens * * *

[CERTIFICATE OF SERVICE]

3 [Filed May 1, 1957]

MOTION TO CONTINUE TRIAL

Defendant moves the Court for a continuance of this case for an indefinite period of at least six months on the ground that there exists in the District of Columbia, and throughout the country, so great a prejudice against the defendant, personally, and as an officer of (a) the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers Union, of which he is an International Vice-President, and (b) the Western Conference of Teamsters, of which he is President, that he cannot obtain a fair and impartial trial in the District, or elsewhere, within a lesser period of time because the mind of the public has been inflamed by current publicity concerning the defendant and other officials of the Teamsters International Union and its affiliates, as set forth in the annexed affidavits and points and authorities in support of such motion.

/s/ Jerry N. Griffin

/s/ John K. Pickens

731 Washington Building
Washington 5, D. C.
Metropolitan 8-5983
Metropolitan 8-4370

Attorneys for Defendant

Dated: May 10, 1957

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AFFIDAVIT IN SUPPORT OF MOTION TO CONTINUE TRIAL

DISTRICT OF COLUMBIA, ss:

Jerry N. Griffin, being duly sworn, deposes and says:

I am a member of the firm of Dawson, Griffin, Pickens and Bird, attorneys for Frank W. Brewster, defendant in the above-entitled action. Along with my partner, John K. Pickens, I appeared for and represented Defendant Brewster during the five days, namely, March 15, 19, 20, 21 and 22, 1957, that he was on the stand in open hearings before the Senate Select Committee to Investigage Improper Activities in the

Labor or Management Field. This affidavit is submitted in support of defendant's motion to continue trial.

On Thursday, March 21, 1957, during the hearings and when Defendant Brewster was on the witness stand he was served with a further subpoena duces tecum for the production "within a reasonable time" as Chairman McClellan stated to produce all his personal and private records for the last 7 years.

On Saturday, April 6, 1957, at approximately 6:25 p.m., Robert Kennedy, Esquire, Chief Counsel to the Senate Select Committee, called me at my home at 5321 Goldsboro Road, Bethesda, Maryland. The operator stated that it was a long distance call. Mr. Kennedy asked me if I would have all the books and records called for in the subpoena served on Mr. Brewster on March 21, 1957, available for him in Seattle two days hence, on Monday, April 15, 1957, along with Mr. Fred Verschueren, purportedly the individual who made out Mr. Brewster's income tax form for several years.

I informed Mr. Kennedy that the books and records would be made available to the Committee but that I did not know where Mr. Brewster or Mr. Verschueren were -- and since this was late on Saturday evening. I did not believe I could have them available in Seattle on Monday morning. Mr. Kennedy then stated that if I could not assure him that they would be made available on that Monday the Committee would want Mr. Brewster to appear before it on Thrusday, April 18, 1957 to testify. In effect, I told him I thought his request on such short notice was unreasonable.

On April 8, 1957, I received the following telegram at my office from Mr. Kennedy:

> "Confirming my telephone conversation with you last evening I would appreciate it if you would notify your client Frank Brewster to make his personal files available to me as the Senate Select Committee representative tomorrow in Seattle or inform me at that time when these records will be made

available. Two weeks have now passed since Mr. Brewster appeared before the Committee and agreed to make records available and if he cannot now turn them over within a reasonable time he should plan to explain this to the Committee on Thursday or Friday of next week. Also in accordance with Mr. Brewster's statement that he would cooperate with the Committee I would appreciate him making available for interview a Teamster employee Mr. Fred Verschueren Sr. whom we have been trying unsuccessfully to interview for over three weeks."

Since that time I have had several telephone conversations with Mr. Kennedy in relation to his request for records and minute books of a local union located at Seattle, Washington, and its building association.

During the five days that I was at the hearings, Mr. Kennedy would call members of the press up to Committee Table at the conclusion of the morning and afternoon sessions and tell the press what facts or information the Committee proposed to bring out at its next session. On many different days, before and during the time Mr. Brewster was on the stand, the local and out-of-town newspapers distributed in Washington, D. C., carried statements of Mr Kennedy to the effect the Committee would show that Mr. Brewster and other Teamster officials had attempted to control organized vice in Portland, Oregon.

Mr Brewster is under a continuing subpoena to return and testify before the Select Committee on a few days' notice. The Committee has stated that it plans hearings in connection with alleged improper activities in Los Angeles and other cities, the local unions and joint councils in which are members of the Western Conference of Teamsters.

Quoted below is a true and correct copy of a press release issued by the Select Committee on Wednesday, May 8, 1957:

"SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD

UNITED STATES SENATE

FOR 7:00 A.M. RELEASE
Wednesday, May 8, 1957

FOR 7:00 A.M. RELEASE
Wednesday, May 8, 1957

"Senator John L. McClellan (D-Ark.), Chairman of the Select Committee on Improper Activities in the Labor or Management Field, made the following announcement today:

"The hearings on the so-called Teamster 'paper locals' in New York have been postponed from mid-May until sometime in mid-June. This step is being taken after consultation between the Chairman and the Justice Department.

"An important witness in that phase of our hearings on New York will be Johnny Dio who is presently under indictment and expected to come to trial in mid-May. It was felt that it would not be proper for the hearings to proceed during the same time that Mr. Dio is being tried.

"It is now anticipated that the hearings on New York will start sometime around the 15th of June."

/s/ Jerry N. Griffin

Subscribed and sworn to before me this 10th day of May, 1957.

/s/ Elizabeth V. Franzoni
Notary Public, D. C.

My Commission expires March 31, 1961.

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AFFIDAVIT IN SUPPORT OF MOTION TO CONTINUE TRIAL

DISTRICT OF COLUMBIA, ss:

John K. Pickens, being duly sworn, deposes and says:

I am a member of the Firm of Dawson, Griffin, Pickens and Bird, attorneys for Frank W. Brewster, defendant in the above-entitled action. Along with my partner, Jerry N. Griffin, I appeared for and

represented Defendant Brewster during the five days, namely, March 15, 19, 20, 21 and 22, 1957, that he was on the stand in open hearings before the Senate Select Committee to Investigate Improper Activities in the Labor or Management Fi ld. This affidavit is submitted in support of defendant's motion to continue trial.

Purportedly pursuant to Public Law 601, Sections 102 (1) (g) and 134, 79th Congress (60 Stat. 816) and Senate Resolution 188, 84th Congress, there was an investigation of improper practices in the labor-management relations field by the Permanent Subcommittee of the Committee on Government Operations of the Senate, setting in the District of Columbia.

On January 19, 1957, the Subcommittee called to the witness stand in open hearing a great number of witnesses, among them the defendant, Frank W. Brewster, who were called to testify concerning certain alleged mishandling of union funds. On that date the defendant refused to answer on the ground that the Subcommittee lacked authority over the subject matter under inquiry.

The hearings at which Defendant Brewster, Einar Mohn, Nugent LaPoma and other officers of the Teamsters Union testified were broadcast, televised and covered by all the major press associations.

Thereafter, pursuant to Senate Resolution 74, a Select Committee in the Labor or Management Field on Improper Activities of the United States Senate was established and Defendant Brewster was summoned to appear before said Committee sitting in the District of Columbia. Defendant appeared and testified on March 14, 19, 20, 21 and March 22, 1957. Committee Counsel and Staff gave out several releases to the press and public to the effect that the hearings would show that Defendant Brewster and other Teamsters officials had attempted to control organized vice in Portland, Oregon and elsewhere. Prior to the appearance of Defendant Brewster, "Big Jim" Elkins, an admitted and convicted gambler and racketeer and reputed underworld king in the Portland, Oregon region had appeared and testified for several days,

along with an array of call house madams and other persons of ill repute, and by direct testimony and inference implied that Defendant Brewster, along with other Teamsters officials, was attempting to take over and control organized vice in Portland.

These hearings were broadcast and televised daily to, what affiant is informed and believes to be, the largest television audience in the District of Columbia and throughout the country. They were covered by all the major press

For example, on Sunday, January 13, 1957, the Washington Post carried as one of its feature stories, an inflamatory story entitled "Labor Rackets Probe to Have Curtain Raiser" in which it is stated that the McClellan Committee had first summoned Frank Brewster, head of the Western States Conference of Teamsters, and Nugent LaPoma of Seattle Local 174 to formally demand books. It goes on to set forth such inflamatory material that "Brewster whose union-purchased Florida home and payment from an insurance agent placing Teamster welfare policies engaged House investigation two years ago, is expected to plead the Fourth Amendment, barring illegal search and seizure." These charges in no way relate to the crime for which defendant was indicted, but they are so scandalous and inflame the public to the point where an impartial jury cannot be impanelled.

On March 2, 1957, the Washington Post carried a full page story on the front page, under the headline "Union Tied to Politics in Oregon" in which it was stated that a former Oregon Democratic State Chairman testified that "Teamster union officials and gamblers were involved in an attempt to take over Oregon law enforcement" and that "Dave Beck and Frank Brewster figured in the scheme." In the same edition the leading editorial was entitled "Cancer in Labor" in which it mentions Frank Brewster and states that there was testimony that a "pinball operator succeeded in getting his machines into operation by paying $10,000 to Frank W. Brewster.". A photostatic copy of this editorial is annexed hereto as Exhibit E.

The Washington Post on March 16, 1957, carried a front page story with a picture of Defendant Brewster and a headline "Files Lost, Union Tells Probers."

The Washington Evening Star on January 17, 1957, published a feature article on the front page entitled "Senate Unit Opens Labor Probe" in connection with a large picture of Defendant Brewster, his attorney Samuel Bassett, Esquire, and Nugent LaPoma, an officer of Local 174 of the Brotherhood of Teamsters, who was indicted along with Defendant Brewster because he refused to answer questions on the ground that the Committee lacked jurisdiction.

Again on January 19, 1957, the Washington Evening Star carried a lead story on the front page "Probe Reveals Charge Against Head of Unions" with a by line "Brewster Also Balks". Approximately one-half of the story on the front page concerned Defendant Brewster and referred to him by name several times. The substance of the article is summed up in one short paragraph which reads as follows:

> "Two of the witnesses Frank W. Brewster, Chairman of the Western Conference of the Teamsters, and Nugent LaPoma, President of a big Teamster local in Seattle, Washington, apparently were defying a subcommittee subpoena to produce their union financial records."

Again on March 3, 1957, the Washington Star carried a lead story entitled "Teamster Link to Vice Probe", McClellan says. The story goes on to say that the investigation was pointing toward a climactic appearance of Dave Beck, President of the Teamsters International, and Frank W. Brewster, West Coast Teamster leader, for questioning about alleged tie-up with racketeers. The article then states that Chairman McClellan - the Senator who introduced the Senate Resolution asking that Defendant Brewster be held in contempt -- "said yesterday that the first week's testimony before the Select Committee investigating labor racketeering shows rather conclusively the

tie-up of underworld figures and Teamster Union officials to control vice operations in Portland, Oregon." It should be noted that this indictment of Defendant Brewster is for contempt and not for alleged crimes of conspiracy to control vice in Portland.

The first day that Defendant Brewster was on the witness stand in open hearings the Washington Evening Star, on March 15, 1957, carried another front page story and picture of Defendant Brewster "checking a check" with the lead headline entitled "Files Lost, Unionist Tell Probers." This front page story was continued on page 4 where it consumed the entire page, except for the advertisements thereon. Photostatic copies of it are annexed hereto as Exhibit A.

On March 22, 1957, Defendant Brewster's picture appeared on the front page of The Washington Evening Star under one headline "Teamster's Account Short $709,420 McClellan Says" in which the entire story is concerning allegations against defendant. It is continued on page 14 where there is a group picture of defendant with his counsel and counsel for the Committee. Also on the front page of the same edition is a story of Defendant Brewster's arraignment in this case entitled "Brewster Files Not Guilty Plea to Contempt." A photostatic copy of this article is annexed hereto as Exhibit B.

On March 16, 1957, the Washington Daily News carried a picture of Brewster, in an awkward position showing him with his hands covering up his eyes, with a story on his testimony and linking his name with Beck and alleging that he had signed checks totaling $23,000 which was diverted for Beck's personal benefit.

On March 20, 1957, the Washington Daily News carried a picture of Brewster examining a check and a story entitled "Teamsters Belabored in a 3-way Squeeze - Say Brewster Got a Cut of Welfare Fee" - followed by a half-page story dealing with improper practices it was alleged that Brewster engaged in. The same edition carried a feature story by Fred Othman entitled "A Somber Mr. Brewster". Photostatic copies of these are annexed hereto as Exhibit D.

The same newspaper, on March 21, 1957, carried as one of its feature stories, a story of Defendant Brewster's testimony before the Committee under the caption "Mr. Brewster Tends Forgets." In the same edition, feature writer Mr. Fred Othman had a story on Defendant Brewster entitled "Whang Bang Tale."

On March 22, 1957, the Washington Daily News carried a picture of Defendant Brewster with a story entitled "Hoodlum? No,' Brewster Says." Photostatic copies of these, along with the articles appearing on March 21, 1957, referred to above, are annexed hereto as Exhibit C.

Upon information and belief, the Washington Post has a daily circulation in the Metropolitan area of approximately 380,000. The Washington Daily News, a daily circulation of approximately 175,000, and the Washington Evening Star, a daily circulation of approximately 250,000.

Life Magazine, Time Magazine, Newsweek Magazine and U.S. News & World Report have a large nationwide circulation and a wide newstand and subscriber circulation in the Metropolitan Washington area.

On March 11, 1957, Life Magazine carried 7 full pages of pictures under the heading "Senators Hear Tales of Scandal". A spread of two pages entitled "Testimony from a Glum Gallery," showed a 5x5 inch picture of Defendant Brewster along with "Tuby Teamster, Frank Malloy" under indictment for extortion and "Fat Fixer, Tom Maloney" who took the Fifth Amendment to many questions before the Committee. In story concerning the testimony, Brewster is reported as having told Elkins, a big time gambler and racketeer, "I make mayors and I break mayors. I make Police Chiefs and I break Police Chiefs. Nothing scares me. If you embarrass my boys, you'll find yourself walking across Lake Washington with concrete boots on".

Preceding these two pages is a full page picture of Gambler Elkins and another page of his testimony enttiled "A Garrulous Racketeer Who Began The Disclosures". Following the pages on Brewster are two pages of pictures of Dave Beck and James Hoffa entitled "Bad Days for Dave Beck".

On March 25, 1957, Life Magazine carried 4 pages on the hearings. A double spread page with a 6x9 inch picture of Defendant Brewster appeared with a caption to the story referring to Brewster, District Attorney Langley, who was then under indictment, as "A Union Sportsman and a Silent D.A." Two pages of pictures preceded this story entitled "A Bribery Charge Adds to Union Blues" and refers to the indictment of Teamster official James Hoffa. Photostatic copies of part of the articles appearing in Life Magazine for March 1, 1957 and March 25, 1957 are annexed hereto as Exhibits H and I.

On March 11, 1957 Times Magazine in an article on the hearings before the Subcommitt : carried pictures of Gamblers Elkins and Malone, along with one of Defendant Brewster. Elkins was reputed king of the underworld in Portland, Oregon. The magazine carried the testimony of Elkins in which he accused Brewster as stating that he made and broke Mayors and Police Chiefs and if Elkins didn't leave his boys alone he would be walking across "Lake Washington in concrete boots".

On April 1, 1957, Time Magazine carried a story headlined "Cash on Whang Bang", Whang Bang being the name of one of the racing horses once owned by defendant. In connection with the story was a picture of defendant with the mare Whang Bang, underneath which was the phrase "Christmas Came on June 22". Another article under the caption "Labor - Time for a Watch Dog" appeared in the same issue. The substance of these stories were that Defendant Brewster was guilty of mishandling union funds, and was guilty of kick-backs or other forms of racekteering. Time featured an article in the form of a biography of Defendant Brewster entitled "From Goon to Gent". This article was composed of two columns the length of the page and was set out in a red line box to attract attention. Photostatic copies of part of the articles appearing in Time Magazine on March 11 and April 1, 1957 are annexed hereto as Exhibits F.

Newsweek Magazine, on March 25, 1957 and again on April 1, 1957,

carried pictures of Brewster and reported the testimony of the hearings and the accusations against him. In the March 25th issue Defendant Brewster's picture was printed along with that of Dave Beck and James Hoffa. In the April 1, 1957 issue is an inflamatory story entitled "Labor Rackets: On A Hot Stove" with a 3-1/2x4 inch picture of Brewster in the center under the caption "Picture of a Man In A Jam". The subject of the story is the mishandling of union funds by Brewster.

The issue of U.S. News & World Report for April 5, 1957, was almost entirely devoted to the hearings before the Committee. Instead of a picture on the cover page, there was a heading entitled "How Unions Can Avoid Rackets". Inside was a lead story covering all or parts of nine pages. It concerned Defendant Brewster and was entitled "Portrait of a Labor Leader -- A Dray Driver Who Reached the Top, But Ran Into Trouble." There were several pictures accompanying the article including a 5x5 inch picture of Defendant Brewster, a picture of a service station purportedly jointly owned by Dave Beck and Defendant Brewster, a picture of a $35,000 home in Palm Springs allegedly bought by the Teamsters for use by Mr. Brewster, and a picture of the home in Seattle, Washington, formerly owned by Defendant Brewster. The article was inflamatory and contained many misrepresentations of the testimony at the hearing. A recitation of the by line in bold type evidences that. It states:

> "Frank W. Brewster, a top official of the rich and powerful Teamsters Union, likes fast horses, fine clothes, rich living.
>
> Mr. Brewster has told a Senate Committee how he managed to satisfy these tastes -- with the help of union funds.
>
> In his own words, there emerges this picture of a labor leader's rise to wealth and power -- and the debts he now must pay."

A photostatic copy of parts of this article are annexd hereto as Exhibit G.

When Defendant Brewster concluded his testimony on March 22, 1957, he was kept under a continuing subpena by the Committee. In fact, on Thursday, March 21, 1957, the Committee had served him with a subpoena duces tecum to furnish all his books during the last 7 years. Since then the Committee has held open hearing and taken testimony concerning alleged corruption and racketeering by Teamster Union officials in Scranton, Pennsylvania, and other areas. During this period the Ethical Practices Committee of the AFL-CIO has been holding hearings regarding the charges against Defendant Brewster and Mr. Beck or face expulsion from the AFL-CIO. All of these recent hearings of the Select Committee, and of the Ethical Practices Committee have been on the front pages of local newspapers, over the radio and on television.

On May 7, 1957, the headlines on the Washington Post were "AFL-CIO Defers Beck Case". This inflamatory story refers to the investigation of the activities of Dave Beck, Defendant Brewster and Sidney L. Brennan and hearing before the Ethical Practices Committee of the AFL-CIO. It is set forth that that Committee has issued a 22-page report and states "The report also outlined Teamster Vice President Frank Brewster's profits from a racing stable partnership with the broker who gets $300,000 a year for handling of Western Conference Welfare Funds." It emphasized that the Teamsters had made no effort to investigate Beck, Brewster, Brennan and other Teamsters officials in Scranton, Pa., Portland, Oregon, Minneapolis and New York City about whom charges of corruption have been aired before official bodies. A photostatic copy of this story is attached hereto as Exhibit J.

On May 9, 1957, the Washington Post carried the headline "Beer Dealer Accuses Beck" with a long story concerning the testimony before the Senate Select Committee by a Seattle beer and whisky distributor, Iriving J. Levine. The story says that Levine "testified how Beck got him a valuable beer distributorship, guaranteed his firms' note, invested some Beck-family capital and even pulled a brief work stoppage all for the greater glory of Dave, Jr. and capital gains for the Beck tribe". A photostat of this article is annexed hereto as Exhibit K.

Because of the testimony before the Senate Select Committee that Defendant Brewster and Dave Beck jointly owned a filling station across from the Teamsters Headquarters in Seattle, the long friendship of the two men and the fact that Brewster signed many union checks which allegedly were used for Mr. Beck personally, almost any adverse publicity concerning Mr. Beck automatically inflames the Washington public and prejudices it against Defendant Brewster as well.

On May 7, 1957, The Washington Daily News carried a headline "Teamsters May Demand Beck and Brewster Resign or 'Retire'." The story states that Committee charged that Mr. Beck and Teamster Vice President Frank Brewster of Seattle, have used union funds for "personal purposes" and their official union positions "for personal profit or advantage". Finally, the Committee indicted the entire leadership for "apparent failure" to investigate or take action regarding the three National officers, plus Senate charges of "corruption and racketeering" in Mr. Brewster's West Coast Division of the union. A photostatic copy of this article is attached hereto as Exhibit L.

These are but a few of the articles and stories that were printed and published and distributed in the Metropolitan area of Washington.

Excerpts from a few of the newscasts and comments made by various commentators on the first day of the hearing are annexed hereto as Exhibit M, along with an affidavit of authenticity by Robert E. Williamson of Radio Reports, Inc.

At the time of hearing on the motion, there will be adduced testimony of witnesses representing the press, broadcasting and television stations, as well as exhibits which will corroborate this affidavit and further supplement it in more detail.

For the foregoing and other and further reasons, it is moved that the time of his trial now set for May 20, 1957, be postponed and continue for an indefinite period of six months.

/s/ John K. Pickens

Subscribed and sworn to before me this 10th day of May, 1957.

/s/ Elizabeth V. Franzoni
Notary Public. D.C.
My commission Expires March 31, 1961.

6

UNITED STATES OF AMERICA :

v. : Criminal No. 289-57

FRANK W. BREWSTER :
Defendant :

MEMORANDUM

It appears to the Court that the issues in the above-entitled case, insofar as any determination of facts by the jury may be concerned, relate purely to formal matters as to which there is no substantial dispute and as to which possible prejudice of jurors will have no influence. The principal questions in the case involve law points for determination by the Court.

In this case the defendant is charged with contempt of Congress by reason of whithholding testimony pertinent to a lawful Congressional inquiry. Such withholding of testimony may seriously hinder and delay the passage of legislation by Congress. For this reason it is of importance that the charge of contempt be decided promptly, especially if defendant will not suffer prejudice.

Defendant's motion to continue trial of this case on the ground that jurors may be influenced to defendant's prejudice by unfavorable press, television and radio comment will be overruled.

s/ Bolitha J. Laws
Chief Judge

May 24, 1957

7 [Filed May 31, 1957]

MOTION TO RELIEVE DEFENDANT OF ANY WAIVER AND TO DISMISS INDICTMENT

The defendant asks that the Court, for cause shown, to relieve the defendant of any failure to move earlier to dismiss the indictment (and so moves to dismiss the indictment) on the ground that there existed in the District of Columbia so great a prejudice against the defendant personally, and as an officer of (a) the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers Union, of which he is an international Vice-President and (b) the Western Conference of Teamsters, of which he is President that an impartial Grand Jury could not have been impanelled during the period January 19 to March 18, 1957, (the date on which the indictment of defendant was handed down), because the public had been so inflamed by the mass publicity of television, radio and the newspapers created by the Open Hearings before the United States Senate Select Committee on Improper Activities in the Labor or Management Field, as set forth in the affidavit and exhibits annexed hereto.

/s/ John K. Pickens

/s/ Jerry N. Griffin

731 Washington Building
Washington 5, D.C.
Metropolitan 8-5983

Dated: May 30, 1957

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8 [Filed May 31, 1957]

AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS THE INDICTMENT

DISTRICT OF COLUMBIA, ss:

John K. Pickens, being duly sworn, deposes and says:

I am a member of the firm of Dawson, Griffin, Pickens and Bird, attorneys for Frank W. Brewster, defendant in the above-entitled action. Along with my partner, Jerry N. Griffin, I appeared for and represented Defendant Brewster during the five days, namely, March 15, 19, 20, 21 and 22, 1957, that he was on the stand in open hearings

before the Senate Select Committee to Investigate Improper Activities in the Labor or Management Field. This affidavit is submitted in support of defendant's motion to dismiss the indictment.

Purportedly pursuant to Public Law 601, Sections 102(1)(g) and 134, 79th Congress (60 Stat., 816) and Senate Resolution 188, 84th Congress, there was an investigation of improper practices in the labor-management relations field by the Permanent Subcommittee of the Committee on Government Operations of the Senate, setting in the District of Columbia.

On January 19, 1957, the Subcommittee called to the witness stand in open hearing a great number of witnesses, among them the defendant, Frank W. Brewster, who were called to testify concerning certain alleged mishandling of union funds. On that date the defendant refused to answer on the ground that the Subcommittee lacked authority over the subject matter under inquiry.

The hearings at which Defendant Brewster, Einar Mohn, Nugent LaPoma and other officers of the Teamsters Union testified were broadcast, televised and covered by all the major press associations.

Thereafter, pursuant to Senate Resolution 74, a Select Committee in the Labor or Management Field on Improper Activities of the United States Senate was established and Defendant Brewster was summoned to appear before said Committee sitting in the District of Columbia. Defendant appeared and testified on March 15, 19, 20, 21 and March 22, 1957. Committee Counsel and Staff gave out several releases to the press and public to the effect that the hearings would show that Defendant Brewster and other Teamsters officials had attempted to control organized vice in Portland, Oregon, and elsewhere.

Prior to the appearance of Defendant Brewster, "Big Jim" Elkins, an admitted and convicted gambler and racketeer and reputed underworld king in the Portland, Oregon region had appeared and testified for several days, along with an array of call house madams and other persons of ill repute, and by direct testimony and inference implied

that Defendant Brewster, along with other Teamsters officials, was attempting to take over and control organized vice in Portland.

These hearings were broadcast and televised daily to, what affiant is informed and believes to be, the largest television audience in the District of Columbia and throughout the country. They were covered by all the major press associations and feature writers in Washington. As shown below, front page inflamatory stories, including pictures of defendant, occurred daily in the Washington Post, the Washington Daily News and the Washington Star, as well as in all of the newspapers in the larger cities throughout the country. Out-of-town newspapers such as the New York Times, New York Daily News and New York Daily Mirror have a large home subscription and newsstand sale in the metroplitan Washington area.

Radio and television commentators gave reports almost hourly on the events of the hearings which included adverse comment and criticism of Defendant Brewster. These reports and commentaries were given not only during the period that the Subcommittee was in session, but were repeated daily over the radio and television. The hearings were televised and play backs of the televised hearings were given over each telecast during the day and evening, including such popular news programs as Bryson Rash (6:30 on Channel 4, WRC); Douglas Edwards (6:30 on Channel 9, WTOP); John Daly (7:15 on Channel 7, WMAL) and Richard Harkness (11:00 on Channel 4, WRC).

The newspaper publicity, some examples of which are set forth herein, was characterized by front page headlines in large, heavy type with pictures of defendant, having colorful stories emphasizing the more scandalous aspects of the testimony. All the nationally circulated weekly news-magazines such as Life, Look, Time, Newsweek, U.S. News and World Report and others carried leading articles on the hearings showing Defendant Brewster's picture with others who had been charged or convicted, or both, of various crimes having no relation to his present indictment.

For example, on Sunday, January 13, 1957, the Washington Post carried as one of its feature stories, an inflamatory story entitled "Labor Rackets Probe to Have Curtain Raiser" in which it is stated that the McClellan Committee had first summoned Frank Brewster, head of the Western States Conference of Teamsters, and Nugent LaPoma of Seattle Local 174 to formally demand books. It goes on to set forth such inflamatory material that "Brewster whose union-purchased Florida home and payment from an insurance agent placing Teamster welfare policies engaged House investigation two years ago, is expected to plead the Fourth Amendment, barring illegal search and seizure." These charges in no way relate to the crime for which defendant was indicted, but they are so scandalous and inflame the public to the point where an impartial jury cannot be impanelled.

On March 2, 1957, the Washington Post carried a full page story on the front page, under the heqdline "Union Tied to Politics in Oregon" in which it was stated that a fomer Oregon Democratic State Chairman testified that "Teamster union officials and gamblers were involved in an attempt to take over Oregon law enforcement" and that "Dave Beck and Frank Brewster figured in the scheme." In the same edition the leading editorial was entitled "Cancer in Labor" in which it mentions Frank Brewster and states that there was testimony that a "Pinball operator succeeded in getting his machines into operation by paying $10,000 to Frank W. Brewster." (A photostatic copy of this editorial was annexed to the Motion to Continue as Exhibit E.)

The Washington Post on March 16, 1957, carried a front page story with a picture of Defendant Brewster and a headline "Files Lost, Union Tells Probers".

The Washington Evening Star on January 17, 1957, published a feature article on the front page entitled "Senate Unit Opens Labor Probe" in connection with a large picture of Defendant Brewster, his attorney Samuel Bassett, Esquire, and Nugent LaPoma, an officer of Local 174 of the Brotherhood of Teamsters, who was indicted along

with Defendant Brewster because he refused to answer questions on the ground that the Committee lacked jurisdiction.

Again on January 19, 1957, the Washington Evening Star carried a lead story on the front page "Probe Reveals Charge Against Head of Unions" with a by line "Brewster also Balks". Approximately one-half of the story on the front page concerned Defendant Brewster and referred to him by name several times. The substance of the article is summed up in one short paragraph which reads as follows:

> "Two of the witnesses Frank W. Brewster, Chairman of the Western Conference of the Teamsters, and Nugent LaPoma, President of a big Teamster local in Seattle, Washington, apparently were defying a subcommittee subpoena to produce their union financial records."

Again on March 3, 1957, the Washington Star carried a lead story entitled "Teamster Link to Vice Probe", McClellan says. The story goes on to say that the investigation was pointing toward a climactic appearance of Dave Beck, President of the Teamsters International, and Frank W. Brewster, West Coast Teamster leader, for questioning about alleged tie-up with racketeers. The article then states that Chairman McClellan-the Senator who introduced the Senate Resolution asking that defendant Brewster be held in contempt -- "said yesterday th ' the first week's testimony before the Select Committee investigating labor racketeering" shows rather conclusively the tie-up of underworld figures and Teamster Union officials to control vice operations in Portland, Oregon." It should be noted that this indictment of Defendant Brewster is for contempt and not for alleged crimes of conspiracy to control vice in Portland.

The first day that Defendant Brewster was on the witness stand in open hearings the Washington Evening Star, on March 15, 1957, carried another front page story and pictures of Defendant Brewster "checking a check" with the lead headline entitled "Files Lost, Unionist Tells Probers."

This front page story was continued on page 4 where it consumed the entire page, except for the advertisements thereon. (Photostatic copies of this were annexed to Exhibit A to the Motion to Continue.)

On March 16, 1957, the Washington Daily News carried a picture of Brewster, in an awkward position showing him with his hands covering up his eyes, with a story on his testimony and linking his name with Beck and alleging that he had signed checks totaling $23,000 which was diverted for Beck's personal benefit.

Upon information and belief, the Washington Post has a daily circulation in the Metropolitan area of approximately 380,000. The Washington Daily News, a daily circulation of approximately 175,000, and the Washington Evening Star, a daily circulation of approximately 250,000.

Life Magazine, Time Magazine, Newsweek Magazine and U.S. News & World Report have a large nationwide circulation and a wide newstand and subscriber circulation in the Metropolitan Washington area.

On March 11, 1957, Life Magazine carried 7 full pages of pictures under the heading "Senators Hear Tales of Scandal". A spread of two pages entitled "Testimony from a Glum Gallery," showed a 5x5 inch picture of Defendant Brewster along with "Tuby Teamster, Frank Malloy" under indictment for extortion and "Fat Fixer, Tom Maloney" who took the Fifth Amendment to many questions before the Committee. In story concerning the testimony, Brewster is reported as having told Elkins, a big time gambler and racketeer, "I make mayors and I break mayors. I make Police Chiefs and I break Police Chiefs. Nothing scares me. If you embarrass my boys, you'll find yourself walking across Lake Washington with concrete boots on".

Preceding these two pages is a full page picture of Gambler Elkins and another page of his testimony entitled "A Garrulous Racketeer Who Began the Disclosures". Following the pages on Brewster are two pages of pictures of Dave Beck and James Hoffa entitled "Bad Days for Dave Beck."

(A photostatic copy of this article was attached to the Motion to Continue as Exhibit H.)

On March 11, 1957, Time Magazine in an article on the hearings before the Subcommittee carried pictures of Gamblers Elkins and Maloney, along with one of Defendant Brewster. Elkins was reputed king of the underworld in Portland, Oregon. The magazine carried the testimony of Elkins in which he accused Brewster as stating that he made and broke Mayors and Police Chiefs and if Elkins didn't leave his boys alone he would be walking across "Lake Washington in concrete boots". (A photostatic copy of this article was attached to the Motion to Continue as Exhibit F.)

In addition to these articles, at the hearing on the motion to continue for an indefinite period of at least six months because of this mass publicity, the following issues of local papers were introduced as exhibits. Each had a front-page reference to Defendant Frank Brewster.

Def. Ex.		
1	Washington Evening Star	December 30, 1956
2	Washington Evening Star	March 6, 1957
3	Washington Evening Star	March 7, 1957
4	Washington Evening Star	March 11, 1957
5	Washington Evening Star	March 12, 1957
6	Washington Evening Star	March 13, 1957
14	Washington Post	January 13, 1957
15	Washington Post	January 17, 1957
16	Washington Post	March 2, 1957
17	Washington Post	March 15, 1957
18	Washington Post	March 16, 1957

These are but a few of the articles and stories that were printed and published and distributed in the Metropolitan area of Washington. Excerpts from a few of the newscasts and comments made by various commentators on the first day of the hearing, March 15, 1957, were

annexed to the Motion to Continue as Exhibit M, along with an affidavit of authenticity by Robert E. Williamson of Radio Reports, Inc.

The Grand Jury that indicted the defendant was impanelled on February 28, 1957, sworn on March 5, 1957 and returned the subject indictment on March 18, 1957. The front page publicity occurred in December and January, 1957. From February 26, 1957, to March 18, 1957 there was a constant barrage of mass publicity. This was immediately prior to, and during, the time which the Grand Jury was sitting on this very matter.

For the foregoing and other and further reasons, it is moved that the Indictment be dismissed as the Defendant Frank W. Brewster was not indicted by an impartial Grand Jury.

/s/ John K. Pickens

Subscribed and sworn to before me this 31st day of May, 1957.

/s/ Elizabeth V. Franzoni
Notary Public, D.C.

My Commission Expires March 31, 1961

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9 | Filed June 25, 1957 |

MOTION FOR POSTPONEMENT OF DECISION AND TO ARGUE NEW QUESTIONS OF LAW RAISED BY SUPREME COURT

Defendant moves for the postponement of the decision of the Court scheduled to be announced at 10:00 a.m. on Wednesday, June 26, 1957, and for an opportunity to allow the defendant to argue the questions of law involved in the Supreme Court's decision in Watkins v. United States, No. 261, October Term, 1956, decided June 17, 1957, and more particularly, in the orders of that Court of June 21, 1957 granting certiorari in Flaxer v. United States, No. 462, October Term, 1956; Barenblatt v. United States, No. 472, October Term, 1956; and Sacher v. United States, No. 848, October Term, 1956, and vacating the judgments and remanding all of those cases to the United States Court of Appeals for the District of Columbia Circuit for reconsideration in

the light of Watkins v. United States, supra.

Defendant respectfully requests the opportunity to argue this motion at 10:00 a.m. on Wednesday, June 26, 1957, prior to the announcement of any decision by the Court in this case.

/s/ John K. Pickens

/s/ Jerry N. Griffin

[CERTIFICATE OF SERVICE]

Dated: June 26, 1957

/s/ John K. Pickens
John K. Pickens

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10 [Filed June 26, 1957]

OPINION

The indictment in this case charges that defendant violated Sec. 192 of Title 2 of the United States Code when he failed to produce certain records subpoenaed by a subcommittee of the Congress and, though directed to testify, refused to answer certain pertinent questions put to him by the committee. The statute reads in part as follows:

> "Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, ..."

In January of 1957, the Permanent Subcommittee on Investigations of the Committee on Government Operations, United States Senate, held investigative hearings under the authority of the Legislative Reorganization Act of 1946 and pursuant to Senate Resolution 188, 84th Congress. These hearings formed part of a series entitled "Violation or Nonenforcement of Government Laws and Regulations in the Labor Union Field".

High officials of the Department of Labor and the National Labor Relations Board had already revealed to the subcommittee, the inadequacy of present laws with respect to financial reports filed with these agencies by labor organizations. Furthermore, conferences with representatives of the Bureau of Internal Revenue raised doubts as to the present policy of granting a blanket tax exemption to all labor unions without any assurance that the funds of a given union are being honestly handled. Previous inquiries had disclosed that manipulation of union funds by racketeering officials had raised the prices on many Government purchases. It was the hope of the Subcommittee that the facts to be developed in the hearings would enable the Congress to decide whether any changes in the statutes or in administrative procedures would better the efficiency of these agencies.

As part of its check into unreported dealings with union funds by officials in the Western Conference of Teamsters, the subcommittee issued subpoenas to defendant as president of the Western Conference of Teamsters, and as president of Joint Council No. 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, both located in Seattle, Washington. The requirements of both subpoenas were substantially the same and they directed the defendant to appear before the subcommittee to testify on December 27, 1956 and to produce the books and records of both the Western Conference and of Joint Council 28. By mutual agreement, the date was postponed to January 16, 1957. On that day, defendant was sworn as a witness, but failed to produce any of the documents subpoenaed, and refused to answer questions. He contended that the committee was acting beyond its authority, and that the subpoena was so broad and lacking in particularity as to amount to an unreasonable search and seizure in violation of the Fourth Amendment. The Chairman then dismissed the witness for later recall. Three days later, the witness appeared again without the subpoenaed papers, and this time adamantly refused to reply to subcommittee questioning. By Senate Resolution 92, 85th

Congress, First Session, dated February 19, 1957, defendant was cited for contempt of the Senate. After indictment by the Grand Jury, the case was tried by this Court. All parties consented to trial without jury.

The indictment contains thirty-one counts falling into five major groups. Eleven counts deal with refusals to verify or identify documents filed with the Secretary of Labor by Joint Council 28 and Local 174 of the Teamsters Union (Counts 2, 3, 4, 9, 10, 11, 12, 13, 16, 17 and 19). Seven counts involve inquiries into the actual, as distinguished from the reported, utilization of union funds (Counts 18, 20, 21, 22, 23, 24 and 25). Defendant also refused to respond to seven questions concerning his intent and purpose in challenging the authority of the subcommittee (Counts 5, 6, 7, 8, 26, 27 and 30). Three questions concerned the instructions circulated among officials of the International Brotherhood of Teamsters that no disciplinary action was to be taken against any official who invoked his constitutional privileges (Counts 14, 15 and 31). Two counts charge defendant with failing to obey the two subpoenas mentioned above (Counts 28 and 29). According to the first count, defendant refused to tell the subcommittee his occupation. In every instance, the Chairman overruled defendant's objections and directed him to answer.

Throughout the trial, defendant's main contentions were: First, that alleged racketeering in the Western Conefrence of Teamsters was clearly beyond the scope of committee authority; second, that the questions contained in the indictment were not pertinent to the question under inquiry; third, that the subpoenas duces tecum violated the Fourth Amendment as being too broad, sweeping and lacking in particularity; fourth, that when defendant later appeared before the Senate Select Committee on Investigation of Improper Activities in Labor-Management Relations and answered questions similar to those found in the indictment, and when he opened up union files to that Committee, he had "purged" himself of any contumacy regarding the Permanent

Subcommittee on Investigations; fifth, that the only motive of the subcommittee in conducting its inquiry was to expose and publicize alleged racketeering in unions; and sixth, that testimony of the chief counsel of the subfommittee was inadmissible as evidence. For reasons now given, the Court rejects each of these contentions.

The first step in resolving the issues presented is to ascertain with all practicable precision, the nature and scope of the "question under inquiry" as it is phrased in the statute. The title, the introductory remarks of the Chairman, and the general nature of the hearings furnish reliable guidance. Compare Watkins v. United States, 25 U.S.L. Week 4510, 4518 (U.S. June 17, 1957). The official title of the investigation was "Violation or Nonenforcement of Government Laws and Regulations in the Labor Union Field". At the first session on January 16, 1957, the Chairman read a prefatory statement and this statement was given out to all interested parties including defendant and his counsel. It states, in part, as follows:

> ". . . In the course of its (prior) investigation, facts were developed showing collusion between certain dishonest management and union officials that had the effect of increasing the cost to the Government of goods and commodities it purchased and the supplying of inferior quality.
>
> "In the passage of the Taft-Hartley law in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types of racketeering, including the misuse or misappropriation of union funds by dishonest union officials. The law provides that there shall be a registration of labor organizations and a full and accurate report by such organizations of their revenues and expenditures and of all compensation and allowances over and above $5,000 paid to and received by labor union officials and union employees from dues collected from members or from other union funds

* * * * *

"The Subcommittee is aware of recent court decisions which may sharply limit and restrict the right of Government agencies such as the Treasury Department, the Bureau of Internal Revenue, the Department of Labor, and the National Labor Relations Board to investigate and determine the accuracy, truthfulness or falseness of various reports the unions and their officials are obligated to file.

* * * * *

"We also want to know whether and why such tax exempt labor union organizations can refuse to allow either the legislative or the executive branch of the Government to examine their books and records . . .

"This subcommittee proposes to determine whether, after such refusal, the continuance of a tax exempt status is warranted or if such tax exempt status should be forfeited by such refusal."

"In the course of our previous investigations and this present preliminary inquiry, we have acquired information that clearly indicates that there is labor racketeering in the area of Government procurement resulting in increased cost to the taxpayers for commodities produced; that false reports have been filed by certain labor organizations with respect to their expenditures; that compensation and allowances paid by certain unions to their officials have not been accurately and truthfully reported; that there has been manipulation of accounts involving dues collected from their members, as well as welfare funds; also other irregularities and improprieties have come to the attention of the subcommittee."

In his conclusion, the Chairman affirms the subcommittee purpose to look into these matters and, if necessary, to recommend legislation or changes in administrative procedure to aid the above agencies in achieving their statutory goals efficiently and without waste. This, then, is the "question under inquiry": Whether the true state of union finances are reflected in the reports filed with the Government agencies and, if not, what may be done about it?

The constitutional power of Congress to inquire into this area is not in question here. "The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes." Watkins v. United States, supra, at page 4511.

I

The fundamental question then arises: Did this inquiry fall within the authority delegated by the Congress to the parent Committee on Government Operations and thence to the Permanent Subcommittee on Investigations? This Court finds that it did.

The legislative Reorganization Act of 1946 (Public Law 601, 79th Congress, 2d Sess., 60 Stat. 812 (1946)), was designed to streamline the committee system of the Senate by reducing the number of standing committees from thirty-three to fifteen to correspond with major areas of public policy and administration. See Senate Report No. 1400, 79th Congress, 2d Sess., (1946). The statute amended Rule XXV of the Standing Rules of the Senate which sets forth the powers and duties of the Standing Committee. Rule XXV (1)(g) provided as follows:

> "(g)(1) Committee on Government Operations, to consist of thirteen Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> (A) Budget and accounting measures, other than appropriations.

(B) Reorganizations in the executive branch of the Government.

(2) Such committee shall have the duty of --

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(B) studying the operation of Government activities at all levels with a view to determining its economy and efficiency;

(C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government;

(D) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member." (Underscoring supplied)

The underscored sections are those principally relied upon by the Government in this case. These provisions constitute the "controlling charter" of committee authority and circumscribe its proper activities. U.S. v. Rumely, 345 U.S. 41, 44 (1952). As was customary, the full investigative power of the parent committee for the year 1957 was invested in the Permanent Subcommittee on Investigations. The official minutes of the meeting of January 14, 1957 of the Committee on Government Operations provide:

"it was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigations as its parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946."

To begin with, it seems evident that the truthfulness of the statements filed with the Department of Labor has a great deal to do with the efficiency and economy of the National Labor Relations Board. Under the Labor Management Relations Act, (1947), 29 U.S.C.A. 141. ff. (1952), 61 Stat. 136 (1947), popularly known as the Taft-Hartley Act, the Board is given broad investigatory and enforcement powers over both labor and management in order to reduce industrial strife by preventing unfair practices by either party. It is important to note that the Board is authorized to extend its valuable aid only to those labor organizations that file with the Secretary of Labor, among other things, a financial statement containing the following information:

> "(1) . . . all of (a) its receipts of any kind and the sources of such receipts, (b) its total assets and liabilities as of the end of its last fiscal year, (c) the disbursements made by it during such fiscal year, including the purposes for which made; and
>
> (2) furnished to all of the members of such labor organization copies of the financial report required by paragraph (1) of this subdivision to be filed with the Secretary of Labor." (29 U.S.C.A. Sec. 159 (1)) (Emphasis supplied)

The scope of this provision shows Congressional concern with the financial integrity of every labor organization that avails itself of the aid of the Labor Board. Nothing less than accurate and truthful disclosure would serve that purpose. The services of the Board are not inexpensive; they could not have been intended for undeserving organizations. As the subcommittee Chairman remarked above, recent court decisions tend to cast doubt on the ability of agencies to check into financial statements filed by unions. Add this to the evidence of alleged false reports and evidence of further manipulation by union officials filing with the Labor Department, and the practical effectiveness of the Labor Board is seriously called into question. This matter compellingly

falls within the range of "economy and efficiency" in this Government agency. As was recently held with respect to this subcommittee's inquiry into the U.S. Information Agency:

> "That this Committee had the power to consider more than budgeting and fiscal matters of government operation is conclusively demonstrated by both the statute setting it up and the legislative history cited. In addition, the Act imposes the duty of studying 'efficiency of government activities at all levels' upon the Committee. In examining the efficiency of its programs, Congress can do more than look for waste; it must be able to examine the efficiency of any program in its entirety, to see if it is carrying out the purposes for which it was created, as part of the study of economic efficiency. A program not carrying out its objective can hardly be said to be economically efficient." U.S. v. O'Connor, 135 F. Supp. 590, 595 (D.C. D.C. 1955) reversed on other grounds, 240 F. 2d 404 (D.C. Cir. 1956).

The subcommittee also has a wide responsibility to assess the effects of laws reorganizing the executive department. It is possible that administrative revisions and procedural changes will enable the Labor Board to render greater service to sound labor-management relations. All of these matters were encompassed in the subject matter under inquiry on January 19, 1957, and all of them were fairly authorized by Standing Rule XXV (1) (g), the Charter of the Committee on Government Operations.

As a matter of recent history it is important to note the wide compass of the subcommittee's activity. During 1956, for instance, the subcommittee looked into such varied topics as Communist infiltration in defense plants, textile procurement in the military services, tariffs on imported watches, redefections among Iron Curtain refugees,

strategic trade between East and West, purchase of locomotives by the Spanish Government and the release of American prisoners in Iron Curtain countries. (Annual Report, Sen. Rep. 1444, 84th Congress, 2d Sess. (1957)). Year after year, the Senate impliedly approves these projects by renewing and often increasing appropriations. The investigative staff of this committee is one of the largest of the Senate. All these factors taken together tend to show the dominant role played by the Permanent Subcommittee on Investigations in the exercise of the Senate's investigating powers.

As a result of these considerations, this Court finds, beyond any doubt, that the subcommittee had the authority to conduct this inquiry.

II.

Defendant next contends that the questions contained in the indictment were not pertinent to the subject under inquiry. It is well settled that a Congressional committee may ask non-pertinent questions, but when the Government seeks to convict a witness criminally for refusing to answer a given question, then pertinency must be established as an element of the offense. Sinclair v. U.S., 279 U.S. 263 (1929); Bowers v. U.S., 92 U.S. App. D.C. 79, 202 F. 2d 447 (1953). Before the issue of pertinency can be settled, it must be established that the subject matter was within the constitutional power of Congress to legislate, and that it is encompassed by the grant of authority to the particular committee. U.S. v. Orman, 207 F. 2d 148, 153 (3rd Cir. 1953). Both of these requirements have been found by the Court to have existed in this case. Like the issue of materiality in perjury cases and the problem of relevancy of evidence, the question of "pertinency" is properly to be decided by the Court as a matter of law. Sinclair v. U.S., supra, at page 298. But pertinency is a much broader test than that of relevancy. Whereas the evidence adduced at trial must pertain to the issues of a particular case, a legislative inquiry must anticipate all possible cases which might reasonably be the subject of legislative action. U.S. v. Orman, supra; Townsend v. U.S., 68 App. D.C. 223.

95 F. 2d 352 (1938) cert. den. 303 U.S. 664 (1938).

This Court finds that the pertinency of the questions contained in the indictment has been established. One of the principal issues under inquiry was the adequacy and accuracy of the reports required to be filed by union organizations. Seven questions sought to elicit the actual purpose for which union funds were being used; eleven dealt with the effort to have the defendant identify and verify certain of the forms already filed by Joint Council 28 with the Department of Labor. These questions clearly relate to the vital problem the Committee sought to solve; namely, is it a sound operating practice to grant the services of the Labor Board to union organizations whose reports may be false and whose funds may be misappropriated?

Seven other questions were calculated to reveal the intent of the witness in refusing to answer, and to find out whether he would give the desired information to any body of Congress. Before citing a witness for contempt, an investigating committee ought to ascertain the nature of his objection. Quinn v. United States, 349 U.S. 155 (1955). The subcommittee here was seeking to assure itself of the contumacious attitude of the defendant before taking further action. It was up to the defendant to define the extent of his objection, and he refused to co-operate.

The telegram dealing with the invocation of constitutional privileges by Teamster officials was also queried. Several inferences could have been drawn from this telegram. It may have indicated either an effort to hinder the subcommittee's probe or a consciousness of guilt, or, at best, a less than frank approach to the duties of union officers under the Taft-Hartley Act. Defendant ranked high and could have enlightened the committee members. He declined to do so.

He also declined at the outset to tell the subcommittee his occupation and suggested they find out from his prepared statement. The Chairman indicated that the statement had not been properly submitted 24 hours in advance as required by Rule 8 of the Subcommittee's Rules

of Procedure (Government Exhibit 12). Even though a committee of Congress may be aware of a fact, a witness has no right to set his own conditions for testifying or to force the committee to depart from its settled procedures. Eisler v. United States, 83 U.S. App. D.C. 315, 170 F. 2d 273 (1948), appeal dismissed, 338 U.S. 883 (1949); United States v. Orman, supra. Self-identification by the witness has a bearing on whether, as a union officer, he obeys federal regulations. The Court therefore finds that this question and all the questions contained in the indictment were pertinent as a matter of law to the subject under inquiry.

III

With respect to the subpoenas duces tecum, the defendant maintains that they are so broad, sweeping and lacking in particularity as to constitute an unreasonable search and seizure under the Fourth Amendment. Subpoena No. 3632 was addressed to "Frank Brewster, Western Conference of Teamsters" and subpoena No. 3633 was headed: "To: Frank Brewster, Joint Council No. 28, International Brotherhood of Teamsters, etc." The provisions of the subpoenas are substantially the same and read, in part, as follows:

> ". . . produce the books and records of (each organization) for the period from January 1, 1951 to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda, and minutes of meetings." (Government Exhibit 6, page 38)

It has been pointed out that neither an incorporated or an unincorporated association can assert an unqualified right to conduct its affairs in secret. United States v. Morton Salt Co., 338 U.S. 636 (1950). However, a corporation may challenge an order for the production of records if it is unreasonable on grounds other than self-incrimination, i.e., if it is too sweeping, Hale v. Henkel, 201 U.S. 43, 76 (1906);

if the information sought is not relevant to any lawful inquiry, Oklahoma Press Pub. Co. v. Walling, 327 U.S. 186, 208 (1946), or if it represents "a fishing expedition" in quest of evidence of crime, Federal Trade Commission v. American Tobacco Co., 264 U.S. 298, 305-306 (1924). However, Mr. Justice Rutledge, in the Oklahoma Press case, supra, states the law that governs here. In that case, the issues concerned the right of the Administrator to obtain judicial enforcement of subpoenas duces tecum issued by him in the course of investigations under Sec. 11 (a) of the Fair Labor Standards Act (52 Stat. 1060 (1938), 29 U.S.C.A. Sec. 211 (a) (1952)). The subpoena called for the production of:

> "All of your books, papers and documents showing the hours worked by and wages paid to each of your employees between October 28, 1938, and the date hereof, including all payroll ledgers, time sheets, time cards, and time clock records and all your books, papers and documents showing the distribution of papers outside the State of Oklahoma, the source and receipt of news from outside the State of Oklahoma, and the source and receipt of advertisements of nationally advertised goods." (id., at footnote 46)

The administrator was trying to find out whether the corporation was subject to the Fair Labor Standards Act and, if so, whether it was violating the Act. The corporation argued that the above subpoena was so lacking in particularity as to violate the Fourth Amendment. In rejecting this contention, the Court held that the description in the subpoena was made with all of the particularity the nature of the inquiry and the Administrator's situation would permit.

> ". . . the requirement of reasonableness, including particularity in 'describing the place to be searched, and the persons or things to be seized,' also literally applicable to warrants, comes down to specification of the documents

> to be produced adequate, but not excessive, for the purposes of the relevant inquiry. Necessarily, as has been said, this cannot be reduced to formula; for relevancy and adequacy or excess in the bredth of the subpoena are matters variable in relation to the nature, purposes and scope of the inquiry." (id., at page 209) (Emphasis supplied).

After applying these principles to this controversy, the Court finds no supportable challenge to the constitutional validity of these subpoenas. Their terms are only as broad as the scope of the inquiry. If subpoenas like these are to fail, the unions will be cloaked with absolute immunity and Congress must wait in the darkness until suspected union officers get around to volunteering confirmatory data.

Defendant places much reliance on Local 174, International Brotherhood of Teamsters v. United States, 240 F. 2d 387 (9th Cir. 1956). In that case, Internal Revenue agents were investigating the income tax liability of defendant. It was held, despite a strong dissent, that the Court below could not issue an order to produce financial records of the local union unless the order was limited to documents pertinent to the tax affairs of the Brewsters. But there the tax liability of defendant was the sole measure of "reasonableness". The Permanent Subcommittee on Investigations, however, was primarily concerned with the union reports filed with the Government. Interest in individuals was purely ancillary. The Court concludes, therefore, that the above subpoenas were reasonably coextensive with the proper scope of subcommittee inquiry, and did not infringe Fourth Amendment privileges.

IV

Defendant also proferred evidence to prove that, even if he had been in contempt before the subcommittee, he had nevertheless "purged" himself by testifying freely before the Select Committee to Investigate Improper Activities in the Labor-Management Field, and by opening the union files to Congressional scrutiny. At that point, the Court ex-

cluded further evidence on this issue. The Court finds, as a matter of law, that the defense of purging cannot apply in this action.

In the first place, the evidence shows that defendant never went before the Subcommittee on Investigations to remove the obstruction set up to their inquest. On the contrary, defendant's contumacy was probably one of the reasons why this Subcommittee's work ground to a stop and that an entirely new body had to be put together with greatly enlarged jurisdiction and resources.

Secondly, it appears to be defendant's position that as long as the Senate got the information it wanted, it matters little through which Committee it was obtained. Assuming without deciding, that this is sound, nevertheless, it is well settled, in the Federal Courts at least, that while purgation by compliance relieves from a "civil" contempt, it is no longer a defense to a "criminal" contempt charge.

Defendant appears to characterize contempt of Congress as a "civil" contempt, where the order is "coercive" and where a recalcitrant is held in confinement until he decides to obey. But it is evident from the procedures set up by the Congress for the prosecution of those who refuse to produce evidence before its committees, that the contempt is "criminal" in nature. Of course, no black and white test is possible. Gompers v. Buck's Stove and Range Co., 221 U.S. 418, 441 (1911). But, if the tests laid down in the Gompers case are applied here, the distinguishing attributes of criminal contempt are unmistakably revealed. Under Title 2, Section 192, a wilful intent is required. A substantial fine or imprisonment may be imposed for a definite duration or amount. There is no provision for release upon obedience. Section 194 provides that whenever section 192 has been violated, and the fact is reported to either House, it shall be the duty of the President of the Senate or the Speaker of the House to certify the facts to the appropriate United States Attorney, whose duty it shall be to bring the matter before the grand jury for its action. 2 U.S.C.A., Sec. 194 (1952), 49 Stat. 2041 (1936). Finally, the cause is brought under an indictment in the name of the

United States and is subject to the right of trial by jury. The aim of a civil contempt, by contrast, is remedial and usually for the benefit of some particular complainant. The imprisoned parties "carry the keys of their prison in their own pockets". In re Nevitt, 117 Fed. 448, 461 (8th Cir. 1902). None of these characteristics are present here. Obviously, then, we are dealing with a criminal contempt.

It is settled, in the Federal Courts at least, that the defense of purging in criminal contempt has been abolished. At common law, where a person was held for an act of defiance against the Court, he could take an oath denying any purpose to obstruct the Court and conclusively "purge" himself. cf. 12 Am. Jur., Contempt Sec. 73 (1938). However, since the landmark decision of Clark v. United States, 289 U.S. 1 (1932), this defense is no longer valid. In the Clark case, the petitioner was a juror who had concealed her former job with the defendant when questioned on voir dire. Because of her lone vote for acquittal, the jury had to be discharged as unable to agree. It was argued that she had purged herself of contempt by denying on the stand any intent to obstruct the Court. On this point, the Court ruled, at page 19:

> "The oath of a contemnor is no longer a bar to a prosecution for contempt. Little was left of that defense after the decision of this court in United States v. Shipp, 203 U.S. 563, 574, 51 L.Ed. 319, 324, 27 S.Ct. 165, 8 Ann.Cas. 265. Since then there has been no purgation by oath where an overt act of defiance is the gist of the offense . . . .
>
> "The time has come, we think, to renounce the doctrine altogether and stamp out its dying embers . . . . It has even lost, since the decision in the Shipp case, the title to respect that comes of a long historical succession. It has taken its place with ordeal and wager of law and trial by battle among the dimly remembered curios of outworn modes of trial."

The Court, therefore, is entirely foreclosed from considering the defense of purging.

Nor was there any evidence that the Senate considered defendant otherwise than in contempt. Defendant was cited by that body and that citation was never withdrawn. The decision in Jurney v. McCracken, 294 U.S. 125 (1935) is not to the contrary. In holding that the Senate had jurisdiction to try for contempt as against a writ of habeas corpus despite allegations that petitioner had removed all obstructions, Mr. Justice Brandeis, said for the court on page 152:

> "Whether he is guilty, and whether he has so far purged himself of contempt that he does not now deserve punishment, are the questions the Senate proposes to try."

It is not too lightly inferred from this, that merely because the Court is now trying the issue of guilt, that it is also free to conclude on its own that conduct, which the Senate branded as an obstruction when it cited defendant, is not really an obstruction after all. The doctrine of Separation of Powers leads to a contrary conclusion. Sanction for such a judicial invasion of legislative discretion should not be wrenched from dicta based on different facts.

V

Repeatedly throughout the trial, defendant has ascribed ulterior motives to the subcommittee. He maintains that the only aim of the inquiry of January 19 was to delve into private union affairs in order to rake up and publicize alleged racketeering by union officers. The Government adduced evidence to show subcommittee concern with the effectiveness of current procedures with respect to reports filed with the Department of Labor. Defendant has characterized this in the language of Watkins as "retroactive rationalization" of what was to the committee a mere "afterthought". The Court cannot agree with this.

As Chief Justice Warren wrote in the Watkins opinion:

"Petitioner has earnestly suggested that the difficult questions of protecting these rights from infringement by legislative inquiries can be surmounted in this case because there was no public purpose served in his interrogation. His conclusion is based upon the thesis that the Subcommittee was engaged in a program of exposure for the sake of exposure. The sole purpose of the inquiry, he contends, was to bring down upon himself and others the violence of public reaction because of their past beliefs, expressions and associations. In support of this argument, petitioner has marshalled an impressive array of evidence that some Congressmen have believed that such was their duty or part of it.

"We have no doubt that there is no congressional power to expose for the sake of exposure . . . But a solution to our problem is not to be found in testing the motives of committee members for this purpose. Such is not our function. Their motives alone would not vitiate an investigation which had been instituted by a House of Congress if that assembly's legislative purpose is being served." (Emphasis supplied) 25 Law Week 4510, at 4515 (1957).

For the reasons set forth above, the Court has found that the subcommittee was acting within the range of its authority and was seeking facts in an area appropriate for legislative action. Once this is established, issues of motivation fade away.

VI

The Government's only witness in this trial was the Chief Counsel of the Permanent Subcommittee on Investigations. His testimony, among other things, tended to reveal the background leading up to the hearings in question, and threw much light on the scope of the

inquiry and the pertinency of the questions in the indictment. Defendant several times objected that this testimony was incompetent as to the purpose of the committee, and that it consisted largely of hearsay and opinions. However, the Court finds these objections groundless. Great latitude was granted to both sides so that the Court could resolve the factual and legal issues set up by the indictment. As Judge Burger asserted in Sacher v. United States, 240 F. 2d 46 (D.C. Cir. 1957), at page 52:

> "Third, it is urged that the testimony of the Subcommittee's legal counsel was inadmissible in the district court . . . Considerable latitude must be allowed to establish the background and basis for a given line of congressional inquiry . . . . Furthermore, in a contempt proceeding, when the questions asked may not be pertinent on their face to the inquiry, it is the Government's duty to establish by other evidence this relationship."

Since these issues had to be resolved and since the Chief Counsel has an intimate knowledge of subcommittee investigations, his testimony may not be ruled out by carping technicalities.

CONCLUSION

At the close of all the evidence, defendant renewed his earlier motion for a judgment of acquital on all the counts of the indictment and moved again to dismiss. At this time, the Court denies both of these motions based on the reasons set forth above.

It is the judgment of this Court that the defendant is guilty on each and every count of the indictment.

Pursuant to Rule 32(e), Federal Rules of Criminal Procedure, the Court refers all cases after conviction to the Probation Office for a pre-sentence report and investigation, and that will be done in this case. The defendant's present bond will continue in effect pending receipt of this report.

John J Sirica
United States District Judge

June 26, 1957

DEFENDANT'S EXHIBIT No. 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES	)	
Plaintiff	)	
v.	)	Criminal No. 289-57
	)	
FRANK W. BREWSTER	)	
Defendant	)	

STIPULATION

It is hereby stipulated that the Honorable James Paul Mitchell, Secretary of Labor, if called as a witness at this trial by the defendant would give testimony substantially as follows:

On January 4, 1957, at 9:30 a.m., Secretary Mitchell met with Robert Kennedy, Esquire, Chief Counsel for the Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate and with Mr. Carmine Bellino, Accounting Consultant to that Subcommittee, in his offices in Washington, D. C. This conference was requested by Mr. Kennedy. The Secretary stated that Mr. Kennedy was soliciting general background information that the Secretary had concerning labor union practices, good and bad, and how unions operated in general. He stated that he could not recall any discussions at this conference relating to the forms required to be filed by labor unions pursuant to Sections 9(f) and (g) of the Taft-Hartley Act. He stated that he thought eight or nine unions were mentioned and that among those was the Teamsters' Union. He stated that the discussion centered mainly around unions in the midwest and east as he (the Secretary) was more familiar with unions in those sections of the Country. The Secretary expressed himself as being of the opinion that Mr. Kennedy was seeking the benefit of the Secretary's experience in the labor field. The Secretary had not discussed any of these matters with Mr. Kennedy, any members of the staff of that Committee, or any members of the Committee prior to that date.

DEFENDANT'S EXHIBIT No. 1

On January 12, 1957, the Secretary went to Senatory John L. McClellan's office pursuant to a prior request from Mr. Kennedy, for a conference with Senator McClellan, Chairman of said Permanent Subcommittee. Senator McClellan inquired of the Secretary concerning the Department of Labor's authority and responsibility under the Taft-Hartley Act concerning the forms filed by labor unions pursuant to Sections 9 (f) and (g) of the Act. At this time Senator McClellan requested the Secretary to be a witness at the hearings which commenced the following Wednesday, January 16. The Secretary stated that he had not at any other time discussed with members of the Committee or its staff the subject of the investigation or the filing of the forms pursuant to said Sections 9 (f) and (g) of the Taft-Hartley Act, except that some time in May 1957 he went to Senator Hill's office in the Senate Office Building and discussed a proposed Joint Resolution to enable the Secretary of Labor to make public information contained on these forms filed by labor unions pursuant to said Sections 9(f) and (g) of the Act. Senator McClellan was present at the conference in Senator Hill's office. As a result of this conference, which was held at the Secretary's request, the Joint Resolution was subsequently introduced by members of the Senate Committee on Labor and Public Welfare and the Select Committee on Improper Practices in the Labor or Management Field.

Other than the conferences referred to, the Secretary stated that he had had no other conferences with other members of the Subcommittee concerning these specific matters.

With reference to the Secretary's testimony on page 23 of the Subcommittee hearings of January 16-19, 1957, in which he stated that the Labor Department was then "reviewing at the President's direction the whole Taft-Hartley Law for the purpose of making recommendations", the Secretary stated that the Department did pursue that study and has made some recommendations.

In addition, the Department has promulgated new registration

DEFENDANT'S EXHIBIT NO. 1

forms pursuant to Public Law 101, 80th Congress, as a result of an administrative decision that more detailed information was desirable from registering unions. The Secretary stated that among the changes made by the new form, information was to be elicited as to gifts, loans, and other financial transactions between union officers and unions. The new form also calls for certification by the president or principal executive officer of the union and the secretary-treasurer or principal financial officer of the union and specifically warns of the penalties which may result under 18 U.S.C. 1001 for the submission of false information. To some degree, these changes in the forms were the result of testimony before the Committees (the Subcommittee and the Select Committee).

Dated at Washington, D.C., this 15th day of June, 1957.

/s/ John K. Pickens
Attorney for Defendant

/s/ William Hitz
Assistant U.S. Attorney

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12 DEFENDANT'S EXHIBIT NO. 2

* * * * *

STIPULATION

It is hereby stipulated that the Honorable Boyd Leedom, Chairman of the National Labor Relations Board, if called as a witness at this trial by the defendant, would give testimony substantially as follows:

On January 7, 1957, Chairman Leedom met with Robert Kennedy, Esquire, Chief Counsel for the Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate, and with other staff members of that Committee. The conference was requested by Mr. Kennedy and occurred at the offices of the National Labor Relations Board, in Washington, D. C. Mr. Kennedy inquired whether the Western Conference of Teamsters was a labor

organization, and whether the Board had any control over a labor organization if the financial data which it filed pursuant to Section 9 (f) and (g) of the National Labor Relations Act, as amended, proved to be false.

Chairman Leedom stated that he did not know whether the Western Conference of Teamsters had appeared as a labor organization in any cases before the Board, but that inquiry would be made of the Board's regional offices concerning this matter.

The results of this inquiry are set forth in Chairman Leedom's subsequent testimony before the Permanent Subcommittee on Investigations (Hearings before the Permanent Subcommittee on Investigations, 85th Congress, 1st Session, January 16, 1957, pp. 3-20, 260-263). Respecting the financial reports under Section 9 (f) and (g), Chairman Leedom pointed out that the Board believed that it had no power to investigate the truth or falsity of the reports, or to declare a union out of compliance if the reports proved false; that the Board's function in this area seemed to be limited to a determination that the union had a postcard from the Secretary of Labor stating that the required documents had been filed with him.

On January 15, 1957, Chairman Leedom went to the office of Senator John L. McClellan, Chairman of the Permanent Subcommittee, for a conference, at which Mr. Kennedy was also present. This conference covered the same ground as the earlier one with Mr. Kennedy. Chairman Leedom again explained the Board's view that it lacked authority to investigate the veracity of the financial reports which were filed by a labor organization pursuant to Section 9.(f) and (g) of the National Labor Relations Act, as amended. Chairman Leedom added that the Supreme Court had recently held that the Board lacked such authority in respect to the non-communist affidavits required by the companion Section 9(h), and that the Board believed that the same rule of law applied to the Section 9(f) and (g) reports.

DEFENDANT'S EXHIBIT NO. 2

The substance of the two conferences described herein was subsequently repeated by Chairman Leedom on January 16, 1957, in his testimony before the Permanent Subcommittee on Investigations (Hearings, op. cit., supra).

Dated at Washington, D.C., this 18th day of June, 1957.

/s/ John K. Pickens
Attorney for Defendant

/s/ William Hitz
Assistant U.S. Attorney

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13 DEFENDANT'S EXHIBIT NO. 3

MINUTES OF THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS HELD ON JANUARY 10, 1957.

The Senate Permanent Subcommittee on Investigations of the Committee on Government Operations met pursuant to notice at 4:15 p.m., on Thursday, January 10, 1957, in the office of Senator McClellan, Room 137 of the Senate Office Building, the Chairman presiding. Also present were Senators Jackson, Symington, Ervin, McCarthy and Mundt, together with staff members Robert Kennedy, James N. Juliana, Jerome S. Adlerman, Carmine S. Bellino, and Ruth Young Watt.

The Chairman stated that as a result of the testimony in the procurement services of the military before this Subcommittee, it was indicated that there was a nationwide condition with respect to labor racketeering and that, under the authority he has, he authorized the staff to conduct the preliminary investigation. During the course of this inquiry, a subpoena was issued on a bank, returnable on the 15th of January, and the labor union involved went into a State Court and enjoined the bank from responding to the subpoena. The Court dissolved the injunction and the bank is now free to comply with the subpoena, but the judge gave the labor union until the 11th of January to take the action to the Supreme Court.

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The Chairman then stated that he anticipated that he would have to go to the Senate to ask for additional authority to go into some of the matters that the staff had uncovered so that no question of jursidiction could be raised in the future. He stated that the Subcommittee had jurisdiction in some areas but in other areas it would be on the borderline. Still other areas, he stated, would be beyond the jurisdiction of the Subcommittee entirely. He explained that Senator Ives had introduced a resolution asking that the Labor Committee be authorized to investigate racketeering in labor organizations. He, the Chairman, prior to knowing of Senator Ives' resolution, caused the staff to prepare an appropriate resolution for this Subcommittee, broadening our authority and asking for additional money. Senator McClellan stated that Senator Ives had told him that he though probably both Committees had jurisdiction but that since he had offered a resolution last year, felt that he should offer it again this year. Senator Ives said he hoped that something could be worked out. Senator McClellan said both resolutions were introduced in the Senate and the Vice President was holding them on his desk without referral. He said he did not know what would happen but discussed the possibilities of a fight of the Floor of the Senate. He explained that a suggestion had been made to try to work out something in the nature of a special committee, or a joint committee; composed of members of the Senate Committee on Labor and Public Welfare, and this Subcommittee. There then followed a general discussion as to the formation of a new committee and the Chairman indicated that he would not be desirous of serving on any new committee unless he knew who the members would be and unless his present staff would handle the investigation. The members of the Subcommittee agreed that this would be proper.

The Chairman turned the committee over to Chief Counsel Kennedy who proceeded to brief the members on the labor investigation. He explained how the labor investigation developed from the testimony in

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the military procurement program which had been handled by the Subcommittee. He said that inquiry had been conducted in the New York area with regard to paper locals: He discussed the relationship of Nathan Shefferman, a labor counsellor in Chicago, with Frank Brewster, President of the Western Conference of Teamsters, and Dave Beck, International President of the Teamsters. He, generally, discussed the relationship between Shefferman and Beck and the many purchases made for Beck by Shefferman. He said the Subcommittee had a great deal of information that Brewster and Beck were using union funds for their personal benefit. He said that the story really would be told in the bank accounts of the Western Conference of Teamsters, and other Teamster unions, but that these bank accounts which had been subpoenaed had not been shown to the Subcommittee because of the State Court action. He anticipated that the Subcommittee would not be able to get information from the union's own accounts because of the union officials involking the Fourth Amendment.

Also, in view of the anticipated contest of the Subcommittee's jurisdiction by witnesses to be called later in the week, Mr Kennedy discussed with the Committee the basis of its jurisdiction First, since unions are tax exempt, then these men were misusing tax exempt monies and therefore, the Committee would be inquiring to determine whether the tax exemption was proper. Second, under the law, the Labor Department requires a financial statement from unions if they wish to obtain the use of the NLRB. However, the Labor Department preently feels that because of certain Court decisions, they are precluded from finding out even whether these reports are accurate or inaccurate.

Mr. Kennedy also pointed out that there appears to be an inadequacy in the law or in the administration of the law in that certain labor organizations such as the Western Conference of Teamsters do not file at all with the Labor Department.

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The Chairman said that he had a right to call an executive session to hear a witness and obtain documents as a preliminary inquiry and he felt that there should be an executive session for Wednesday and possibly public hearings later on.

Whereupon, at 5:10 p.m. the Committee was adjourned.

Ruth Young Watt
Chief Clerk

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14 DEFENDANT'S EXHIBIT NO. 4

This is to certify that the following are true and accurate excerpts from the official minutes of the meeting of January 14, 1957, of the Committee on Government Operations of the United States Senate:

"MINUTES OF MEETING OF COMMITTEE ON GOVERNMENT OPERATIONS HELD MONDAY, JANUARY 14, 1957

"The Committee on Government Operations met, pursuant to notice, on Monday, January 14, 1957, at 10:00 a.m. in Room 357, Senate Office Building. Chairman McClellan presided. Also present were the following Senators:

"Senator Jackson
Ervin
Thurmond
McCarthy
Mrs. Smith of Maine
Martin of Iowa
Curtis

"The following matters on the attached agenda were discussed, and action taken as indicated:

"Appointment of subcommittees

Chairman McClellan announced the appointment of the following subcommittees, stating that the minority members had been appointed in each instance after consultation with the ranking minority member, Senator McCarthy:

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"Senate Permanent Subcommittee on Investigations

"Senator	McClellan, Chairman	McCarthy
	Jackson	Mundt
	Symington	Revercomb
	Ervin	

* * * * *

"On motion of Senator Thurmond, seconded by Senator McCarthy, organization of these subcommittees was approved and the membership confirmed."

* * * * *

"Budget for Senate Permanent Subcommittee on Investigations

On motion of Senator McCarthy, seconded by Senator Thurmond, the proposed budget for the subcommittee for the period February 1, 1957 to January 31, 1958, in the amount of $225,000, was unanimously approved. Chairman McClellan was authorized to introduce an original resolution requesting funds in that amount, for reference to the Committee on Rules and Administration.

"Labor Racketeering Investigation

Senator McClellan informed the committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week, on the question of labor racketeering, and that a question of committee jurisdiction had arisen between this committee and the Committee on Labor and Public Welfare. He also stated that, in the event that the Subcommittee on Investigations was to undertake the investigation, it would be necessary to have additional funds."

* * * * *

"Rules of Procedure for the Senate Permanent Subcommittee on Investigations.

Senator McCarthy moved the adoption of the previous rules of the Subcommittee on Investigations, with a modification to Rule No. 7 suggested by Chairman McClellan. Senator Thurmond seconded the

DEFENDANT'S EXHIBIT NO. 4

motion, and the previous rules of the Permanent Subcommittee on Investigations adopted during the 84th Congress, were unanimously adopted, with the inclusion of the amended language to Rule 7, as suggested by Chairman McClellan."

* * * * *

"It was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigations as its parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946."

* * * * *

"The meeting adjourned at 10:30 a.m."

June 10, 1957 /s/ Walter L. Reynolds
Chief Clerk

This is to certify that Walter L. Reynolds is Chief Clerk of the Committee on Government Operations of the United States Senate and is the custodian of the official records of that Committee.

(SEAL) /s/ Felton M. Johnston
Secretary of the Senate

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15 DEFENDANT'S EXHIBIT NO. 6

MINUTES OF MEETING OF COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS HELD THURSDAY, FEBRUARY 26, 1948

The Committee on Expenditures in the Executive Departments met, pursuant to telephone notice, on Thursday, February 26, 1948 at 10:00 a.m. in room 357, Senate Office Building. Senator Aiken, Chairman, presided. The meeting was called to order at 10:35 a.m. Also present were Senators Ferguson, Bricker, Thye, McCarthy, Ives, McClellan, Loey, Robertson (Va.) and O'Connor. Senators Hickenlooper, Eastland, and Taylor were unable to attend.

Thairman Aiken stated that the meeting was called to consider the appointment of a subcommittee to carry out the provisions of S. Res.

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189, 80th Congress. A general discussion relative to the size, functions, and authority of the subcommittee followed.

At the suggestion of Senator McClellan, it was unanimously agreed to authorize the Chairman to appoint a subcommittee of seven to carry out the provisions of S. Res. 189; three members of the subcommittee to constitute a quorum for the holding of hearings, but not for executive sessions. Chairman Aiken named the following members to the subcommittee:

Senator Homer Ferguson, Chairman

Senator Irving M. Ives	Senator John L. McClellan
Senator John W. Bricker	Senator Herbert R. O'Conor
Senator Edward J. Thye	Senator Clyde R. Hoey

(Note: Chairman Aiken mentioned the appointment of Senator Robertson of Va. to the subcommittee. However, Senator Ferguson, Chairman of the Subcommittee to Investigate Wildlife Conservation, Committee on Expenditures, stated that while he wanted to retain the chairmanship of that subcommittee, he would like Senator Robertson as sub-chairman to carry on the actual work of the subcommittee. Senator Robertson then stated, in view of those circumstances, he would be glad to yield to Senator Hoey.)

It was further unanimously agreed that the subcommittee be authorized to proceed with any investigation within the jurisdiction of the full committee.

However, without limiting the authority thus granted to the subcommittee, an understanding was reached that the subcommittee would in general observe the following restrictions upon its activities:

1. If the members of the subcommittee fail to reach unanimous agreement with respect to any major investigation or field of investigation, the matter shall be submitted to the full committee for decision.

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2. The principal function of the subcommittee shall be to investigate complaints and information coming to its attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corrupt or unethical practices and waste and extravagance in transactions, contracts, and activities of the Government or of governmental officials or employees.

3. Studies of routine problems of management or administrative economy or efficiency such as are made from time to time by the staff of the Committee on Expenditures and which do not require extensive work of an investigating character shall not ordinarily be included in the duties of the subcommittee.

4. The chief clerk of the Committee on Expenditures and the staff of the subcommittee shall consult together to determine whether particular complaints should be handled by the Expenditures Committee staff or referred to the subcommittee for consideration.

A name for the subcommittee was discussed. The proposal was made that it be called the Subcommittee on Senate Investigations. It was suggested that it would probably come to be known as the Senate Investigating Committee.

Senator Ferguson pointed out that under the present rule, the full Committee has to determine that an executive session can be held, and expressed the feeling that it should not be necessary to call the full committee together each time the subcommittee wished to hold an executive session. On motion of Senator McClellan, seconded by Senator Hoey, it was voted that, until otherwise ordered by the full committee, the subcommittee or the chairman thereof be authorized to call and hold executive sessions whenever it is deemed advisable.

DEFENDANT'S EXHIBIT NO. 6

Senator Ferguson also pointed out that while a majority of the subcommittee should under the general parliamentary rule constitute a quorum for determining questions of policy and transacting like business in executive session, there would be occasion to hold executive sessions rather frequently for the purpose of taking testimony of, or conferring with, Government officials and others, in order to determine the advisability of holding public hearings. He felt that it would be difficult, if not impossible, to obtain a quorum of three or four for meetings of this type and proposed that the subcommittee be authorized to hold such executive sessions with only a single member present. The committee unanimously agreed to this proposal.

Senator Ferguson and members of the Subcommittee on Senate Investigations agreed to look into the question of office space, and Senator Ferguson advised that it was his intention to discuss with the subcommittee members the question of its permanent staff.

The meeting adjourned at 12:05 p.m.

Attest:

/s/ Ann M. Grickis
Clerk

DEFENDANT'S EXHIBIT NO. 9

16 LEGISLATIVE REORGANIZATION ACT OF 1946

May 31 (legislative day, March 5), 1946. --Ordered to be printed.

Mr. La Follette, from the Special Committee on the Organization of Congress, submitted the following

REPORT

* * * * *

To remedy this crazy-quilt pattern S. 2177 would replace our jerry-built committee structure with a simplified system of standing committees corresponding with the major areas of public policy and administration and having authority to hold joint hearings with the

parallel committees of the House of Representatives on matters of common interest. (See chart.) The correlation of the committee systems of the two Chambers with each other would facilitate joint action on specific measures by means of joint hearings. It would also increase the efficiency of the committee structure, facilitate closer liaison between the two Houses, and economize the time of busy legislators and administrators alike. And the coordination of the congressional committee system with the pattern of the administrative branch of the National Government would improve the performance by Congress of its legislative and supervisory functions, provide direct channels of communication and cooperation between the two branches, promote more harmonious and unified action in the development of public policies, and go a long way to bridge the gap between the legislative and executive branches of the Government.

Consolidation of Senate standing committees

EXISTING COMMITTEES	REORGANIZED COMMITTEES
1. Agriculture and Forestry	1. Agriculture and Forestry.
2. Appropriations	2. Appropriations.
3. Military Affairs 4. Naval Affairs	3. Armed Services.
5. Banking and Currency	4. Banking and Currency.
6. Civil Service 7. Post Offices and Post Roads	5. Civil Service.
8. District of Columbia	6. District of Columbia.
9. Expenditures in the Executive Departments.	7. Expenditures in Executive Departments.
10. Finance	8. Finance.
11. Foreign Relations	9. Foreign Relations.
12. Interstate Commerce 13. Commerce 14. Interoceanic Canals 15. Manufactures	10. Interstate and Foreign Commerce

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16. Judiciary	11. Judiciary.
17. Patents	
18. Immigration	
19. Education and Labor	12. Labor and Public Welfare.
20. Public Lands and Surveys . . .	13. Public Lands.
21. Mines and Mining	
22. Territories and Insular Affairs	
23. Irrigation and Reclamation . . .	
24. Indian Affairs	
25. Public Buildings and Grounds. .	14. Public Works.
26. Rules	15. Rules and Administration.
27. Audit and Control	
28. Library	
29. Privileges and Elections . .	
30. Printing	
31. Enrolled Bills	
32. Pensions	16. Veterans' Affairs.
33. Claims	(Abolished.)

* * * * *

S. 2177 would also define the jurisdiction of each reorganized committee so as to avoid jurisdictional disputes between them. It would expand the present meager staff facilities of our standing committees, which are the real workshops of Congress; permit each committee to appoint four experts in its field; and strengthen the legislative reference and bill-drafting services which are our own unbiased research and legal arms. * * *

* * * * *

Oversight of administrative performance

A third group of provisions in the bill is designed to strengthen congressional surveillance of the execution of the laws by the executive branch. Congress has long lacked adequate facilities for the continuous

inspection and review of administrative performance. We often delegate the rule-making power to administrative departments and commissions, without making any provision for follow-up to see if administrative rules and regulations are in accord with the intent of the law. Several of the postwar acts, for example, require certain agencies to submit quarterly reports to Congress, but assign the responsibility for scrutinizing these reports to no legislative committees.

To remedy this situation, S. 2177 would authorize the standing committees of both Houses to exercise continuous surveillance of the execution of the laws by the administrative agencies within their jurisdiction. Armed with the power of subpena and staffed with qualified specialists in their respective provinces of public affairs, these committees would conduct a continuous review of the activities of the agencies administering laws originally reported by the legislative committees. The reconstructed standing committees will, it is hoped, roughly parallel the reorganized administrative structure of the executive branch of the Government and will be utilized as vehicles of consultation and collaboration between Congress and the corresponding administrative agencies within their respective jurisdictions.

Under this arrangement, it will no longer be necessary to create special committees of investigation from time to time. Sporadic investigations of the conduct of public affairs in the past have often served a salutary purpose by exposing administrative incompetence or corruption and by improving the execution of the laws. But they have lacked continuity and have not provided the members of standing committees with direct knowledge of the information they have gathered. In cases where legislative action is indicated, standing committees find it necessary to do much of the work over again. S. 2177 proposes, therefore, to ban the use of special committees hereafter.

As a further check upon the financial operations of the Government and its care in handling public funds, the bill authorizes and directs the

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Comptroller General to make administrative management analyses of each agency in the executive branch, including Government corporations. Such analyses, with those made by the Bureau of the Budget, will furnish Congress a double check upon the economy and efficiency of administrative management. Reports on such analyses would be submitted by the Comptroller General to the Expenditures, Appropriations, and appropriate legislative committees, and to the majority and minority policy committees, of the two Houses.

* * * * *

DEFENDANT'S EXHIBIT NO. 10

17 [Filed August 30, 1957]

79th Congress - 2d Session Report No. 1011

ORGANIZATION OF THE CONGRESS

REPORT

of the

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Pursuant To

H. CON. RES. 18

March 4, 1946

* * * * *

3. Jurisdiction of Committees

Recommendation: That House and Senate rules be amended to define clearly the jurisdiction of each reorganized committee so as to avoid overlapping and duplication and conflicts of jurisdiction.

Reorganization of the committees as recommended above, will require a revision of the rules of the two Houses so as clearly to define

the jurisdiction of the new standing committees. It is recommended that, as this is done, the jurisdiction of each reorganized committee be clearly defined so that overlapping and duplication will be eliminated. The definitions should enumerate the activities covered and describe their scope in terms of subject matter of legislation as well as the administrative organization of the Federal Government so that disputes over jurisdiction will be minimized or eliminated.

The major objective or predominant character of a bill in the opinion of the presiding officers of the Senate and the House, should be controlling in determining the reference of bills to committees. We recommend the exercise of more care in the reference of Senate bills. A bill should be referred without regard to the author's service on any particular committee seeking jurisdiction when its subject matter does not normally lie in the defined province of that committee.

In redefining the jurisdiction of committees, great care should be taken clearly to resolve existing conflicts by specifying which committee shall have jurisdiction.

4. Legislative Oversight by Standing Committees

Recommendation: That the standing committees of both Houses be directed and empowered to carry on continuing review and oversight of legislation and agencies within their jurisdiction; that the power of subpena be given them; and that the practice of creating special investigating committees be abandoned.

One of the most difficult problems studied by your committee was that of improving the relationship between Congress and the executive departments of Government. This was ordered in the joint resolution under which we have been operating and appears to your committee to be one of the important phases of our study.

While the Constitution directed the separation of powers between the executive and legislative branches, it did not intend them to go separate ways and in opposite directions. Each year the gulf between

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Capitol Hill and the departments widens. And without effective legislative oversight of the activities of the vast executive branch, the line of democracy wears thin. Only 1 man out of the 3,000,000 Federal employees is elected by and is responsible directly to the people.

Composed of the directly elected representatives of the people, Congress needs to improve its lines of communication, its relationships, its understanding of the departments. At present there is no regular machinery of cooperation between them aside from inadequate informal conversations or correspondence or a full-dress investigation, by which the common problems of governmental policy can be surveyed.

Vast powers are often necessarily delegated to governmental agencies. Sometimes the laws are not clear or specific and sometimes a problem defies specific legal description and adequate limitation. A clear and continuing understanding of the objectives and methods of the departments should be achieved.

We feel that this oversight problem can be handled best by directing the regular standing committees of the Senate and House, which have such matters in their jurisdiction, to conduct a continuous review of the agencies administering laws, originally reported by the committees. Frequent consultation with and reporting to the committees would greatly improve relationships between the executive and legislative branches.

Such review might well include a question period by the committee arranged with the help of a greatly improved committee staff. By this method an open channel of complaints of agency shortcomings or abuses of authority could be maintained so as to furnish all Members of Congress with a clearinghouse for bringing complaints to the attention of administrators through the proper legislative committees.

Directing the regular standing committees to carry on this supervisory function appeals to your committee as a better method when the appointment of numerous select investigating committees when situations have grown so difficult as to arouse public demand for correction or special study We recommend that the practice of creating special committees of investigation be abandoned.

Each of the reorganized standing committees should be given the power of subpena and should be authorized to undertake studies of matters within its jurisdiction either by full or subcommittee action. By directing its standing committees to perform this oversight function, Congress can help to overcome the unfortunate cleavage between the personnel of the legislative and the executive branches.

DEFENDANT'S EXHIBIT NO. 11

84th Congress
2d Session

S. RES. 304

[Filed August 21, 1957]

IN THE SENATE OF THE UNITED STATES

July 5 (legislative day, July 3), 1956

Mr. Ives submitted the following resolution; which was referred to the Committee on Labor and Public Welfare

RESOLUTION

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized and directed to make a comprehensive study and investigation of the penetration of criminal elements into, and their influence on, organized labor in the United States for the purpose of ascertaining whether legislation is necessary for the protection of labor organizations, employees, employers, and the general public. The committee shall report its findings together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date.

SEC. 2. For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed $250,000 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

DEFENDANT'S EXHIBIT NO. 12

85th CONGRESS
1st Session

[Filed August 21, 1957]

S. RES. 13

IN THE SENATE OF THE UNITED STATES

January 7 (legislative day, January 3), 1957

Mr. Ives (for himself and Mr. Purtell) submitted the following resolution; which was ordered to lie on the table and to be printed.

RESOLUTION

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized and directed to make a comprehensive study and investigation of the penetration of criminal elements into, and their influence on, organized labor in the United States, for the purpose of ascertaining whether legislation is necessary for the protection of labor organizations, employees, employers, and the general public. The committee shall report its findings, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date.

SEC. 2. For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed $250,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

DEFENDANT'S EXHIBIT NO 13

85th CONGRESS
1st Session

S. RES. 14

IN THE SENATE OF THE UNITED STATES

January 7 (legislative day, January 3), 1957

Mr. McClellan submitted the following resolution; which was ordered to lie on the table and to be printed

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RESOLUTION

Whereas the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, in the course of investigations into Government procurement practices of the Defense Department, has found evidence of racketeering and collusion between certain labor officials and employers which might seriously affect and impair proper Government procurement; and

Whereas a preliminary staff investigation of such subcommittee with respect to the general field of improper activities of certain segments of labor union leadership and collusive practices of such leadership with management has disclosed conditions requiring a thorough investigation and exposure of the facts to determine whether further legislation should be recommended; and

Whereas the United States Government spends billions of dollars on procurement of goods and services every year, and hundreds of millions of dollars in the construction of public works; and

Whereas the United States Government is about to embark on a vast roadbuilding program which will involve the expenditure of many billions of dollars; and

Whereas the free flow of goods in interstate commerce is necessary for the efficient and economic administration of Government; and

Whereas the continuance of any such improper, illegal, and racketeering activities by certain union officials, in collusion with management or otherwise, may result in an enormous loss to the United States Government; and

Whereas evidence tending to show (1) the infiltration by criminal elements into the field of organized labor, (2) the use of violence, shakedowns, blackmail, bribery, embezzlement, extortion, by certain segments of union leadership, by collusion with management or otherwise, (3) the existence of other forms of corruption, violation, evasion of laws of the United States on the part of corrupt union officials, (4) that union funds are being misused and misappropriated for the personal benefit of certain union officials and true and accurate financial statements are, therefore, not being filed with the Labor Department as required by Public Law 101, Eightieth Congress, first session, chapter 120, 9 (f) and (g). (5) the failure on the part of any agency of the Government to enforce existing laws and regulations; should be thoroughly investigated. Now, therefore, be it

Resolved, That the Committee on Government Operations, or any duly authorized subcommittee thereof, is authorized, under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in the exercise of its jurisdiction under rule XXV of the Standing Rules of the Senate to study the operation of Government activities at all levels with a view to determining its economy and efficiency, to examine, investigate, and to study the impact of labor irregularities on Government operations, and to determine and make a complete study of --

(1) whether there exist any infiltration of persons engaged in pursuing criminal practices and activities in the field of organized labor or any other corrupt, collusive, or illegal practices such as racketeering, extortion, and blackmail, and improper practices which are against the public interest or against the interest of labor organizations or their membership;

(2) whether any such practices have occurred or resulted in violation of, or may occur or result in evasion or impairment of, any statutes of the United States, or violate the civil rights and liberties of individual members of organized labor or other persons;

(3) whether such statutes have been properly, efficiently and vigorously enforced and administered by officers and agencies of the United States charged with responsibility for their enforcement and administration; and

(4) whether existing laws of the United States are adequate to protect the public interest and the interest of labor organizations and their membership against the occurrence of such practices

Sec 2 For the purpose of this resolution the committee, until January 31, 1958 is authorized to (1) make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical clerical, and other assistants and consultants; and (3) with the consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities and personnel of any of the departments or agencies of the Government

Sec 3 The committee shall report its findings together with its recommendations for such legislation as it deems advisable to the Senate at the earliest practicable date, but not later than January 31, 1958

DEFENDANT'S EXHIBIT NO. 13

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Sec. 4 Expenses of the committee, under this resolution, which shall not exceed $250,000.00, shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

 DEFENDANT'S EXHIBIT NO. 14

EXCERPTS FROM

CONGRESSIONAL RECORD

PROCEEDINGS AND DEBATES OF THE 85th CONGRESS,
FIRST SESSION

VOL. 103 WASHINGTON, WEDNESDAY, JANUARY 30, 1957. No. 17

* * * * * *

Page 1139

The resolution (S. Res. 74), as amended, was agreed to, as follows:

Resolved, That there is hereby established a select committee which is authorized and directed to conduct an investigation and study of the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers to the detriment of the interests of the public, employers or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities

SEC 2 (a) The select committee shall consist of 8 members to be appointed by the Vice President, 4 each from the majority and minority Members of the Senate and shall, at its first meeting, to be

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called by the Vice President, select a chairman and vice chairman, and adopt rules of procedures not inconsistent with the rules of the Senate

(b) Any vacancy shall be filled in the same manner as the original appointments

SEC. 3 (a) The select committee shall report to the Senate by January 31, 1958, inclusive, and shall, if deemed appropriate, include in its report specific legislative recommendations.

(b) Upon the filing of its final report the select committee shall cease to exist.

DEFENDANT'S EXHIBIT NO. 14

SEC. 4. For the purposes of this resolution the select committee is authorized as it may deem necessary and appropriate to (1) make such expenditures from the contingent fund of the Senate; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpena or otherwise the attendance of such witnesses and production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony, either orally or by deposition; (7) employ on a temporary basis such technical, clerical, and other assistants and consultants; and (8) with the prior consent of the executive department or agency concerned and the Committee on Rules and Administration, employ on a reimbursable basis such executive branch personnel as it deems advisable; and further with the consent of other committees or subcommittees, to work in conjunction with and utilize their staffs, as it shall be deemed necessary and appropriate in the judgment of the chairman of the select committee.

SEC. 5. The expenditures authorized by this resolution shall not exceed $350,000, and shall be paid upon vouchers signed by the chairman of the select committee.

[Filed August 30, 1957]

DEFENDANT'S EXHIBIT NO. 15

MR. PICKENS: It has been stipulated between counsel for the Government, Mr. Hitz, and myself, that if Mr. Justin Winkle, the Assistant Commissioner of Internal Revenue, were called to testify, he would testify as follows, in substance.

He would testify, in substance, as follows:

"At the request of Mr. Robert Kennedy, counsel to the Subcommittee, Mr. Harold T. Swartz, Director of the Tax Rulings Division of the Internal Revenue Service, and I appeared at Mr. Kennedy's

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office at 9:30 A. M.; January 11, 1957. A few minutes after we arrived, Mr. Adlerman who was introduced to us as a member of the Subcommittee Staff, also came into Mr. Kennedy's office. To the best of my recollection, the following is the substance of the conversation which ensued during that meeting although the items are not all necessarily set down in the order in which they were discussed:

"(1) The conversation opened with some general questions by Mr. Kennedy as to whether labor unions were exempt from income tax, whether they were required to file returns of any kind, and to what extent we checked those returns. I replied that labor unions were exempt from income tax under Section 501(c)(5) of the Internal Revenue Code; that they were required to file annual information returns; and that the extent to which these returns were checked was very limited due to the Service's manpower situation.

"(2) There was also some discussion of the penalties which applied when an exempt organization filed a false return.

"(3) Mr. Kennedy also asked whether we ever had any occasion to challenge the exempt statuts of an organization because it refused to turn over its books and records to us. My reply, which was confirmed by Mr. Swartz, was that we did not recall that this had ever happened.

"Mr. Kennedy asked whether the Service believed that it had authority to revoke an exemption on these grounds. My reply to this was that I personally believed it had.

"Mr. Kennedy asked why if this was the Service's position, we had not done so and he referred briefly to the decision of the Ninth Circuit in the case involving a Local of theTeamsters Union on the West Coast. I told Mr. Kennedy that I could not answer that question inasmuch as matters pertaining to litigation were not within my province but within the province of the Chief Counsel of the Service.

"(4) Mr. Kennedy also wished to know whether the Service would have any interest in information which might indicate that

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an official of a labor union had taken monies from the welfare fund of the union. I told Mr. Kennedy that the Service would be interested in receiving any information which might possibly bear upon the question whether the union had filed a correct information return, whether it was properly exempt, or whether any of its officials had reported all the income which they were required to under the revenue laws.

"(5) There was also a brief discussion of why the Subcommittee could not secure access to applications filed by labor unions under the authority which it was given by Executive Order to inspect information returns.

"(6) During the course of the discussion, and at the request of Mr. Kennedy, I left with him copies of the types of application and return forms which labor unions are required to file.

"The foregoing represents my best recollection of the substance of the meeting of January 11. It was a relatively short meeting and there was no discussion of any specific tax cases. The only court decision that was mentioned was the decision of the Ninth Circuit involving Local No. 174."

He continues:

"At 2:00 P. M. on January 15, 1957, Mr. John Potts Barnes then Chief Counsel of the Internal Revenue Service, Mr. William M. Coard, Chief of the Intelligence Investigations Branch of the Intelligence Division of the Service, and I went to the office of Senator John L. McClellan, pursuant to a telephone request made by Mr. Kennedy that the Senator would like to see Mr. Barnes and myself.

"When we arrived, we were greeted by Senator McClellan and Mr. Adlerman. Mr. Kennedy came into the Senator's office a few minutes after the discussion began.

DEFENDANT S EXHIBIT NO. 15

"The following represents my best recollection of the conversation which ensued on this occasion:

"(1) Senator McClellan, after thanking us for coming up, told us how the Permanent Subcommittee on Investigations had first become interested in labor unions, stating that its interest had stemmed from some inquiries it had made into certain Naval procurement practices. He also stated that the Subcommittee was about to open hearings to determine whether there is a need for any changes in the laws relating to labor unions and welfare funds since information which had come to the attention of the Subcommittee indicated some irregularities and abuses in these areas.

"Senator McClellan also stated that he had reason to believe that there might be some challenge made to the jurisdiction of the Subcommittee before the public hearings got under way; that he intended to ask representatives of Internal Revenue Service, as well as representatives of other Governmental agencies having responsibilities in the areas of labor unions and welfare funds to appear and answer questions respecting the adequacy of existing laws and the procedures and practices being followed in enforcing them.

"(2) With the exception of one or two additional items that were discussed, which are set forth in the paragraphs which follow, the conversation which then ensued was pretty much a repetition of the preliminary conversation had with Mr. Kennedy and Mr. Adlerman on January 11th. The exceptions, as I recall them, were as follows:

"(3) There was some discussion as to whether, in the event the Service decided to revoke the exemption of a labor union, it would tax the dues paid into the union as income to it. Chief Counsel Barnes expressed some doubt on this score but Mr. Adlerman pointed out that there was a line on the information return form which suggested that dues would constitute income

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"(4) There was also some discussion as to whether the Service could revoke the exempt status of a labor union on the ground that a part of its income was inuring to the benefit of an official.

"(5) There was some discussion as to whether the Service believed that legislation might be needed to prevent some of the abuses and irregularities that information before the Subcommittee indicated existed. Mr. Barnes replied to this question in substantially the same way he replied to a similar question put to him by the Chairman during the Hearings held on January 16 (see page 35 of the Hearings). In this connection, reference was also made to the fact that the Treasury Department had already committed itself to the Moss Subcommittee to sponsor legislation making applications filed by exempt organizations available for public inspection.

"(6) One of the final questions asked by Senator McClellan was whether, in view of the fact that the Service did not have sufficient manpower to examine returns of all labor unions and welfare funds, it would improve the Service's operations and overall efficiency if information was made available to it through hearings which the Subcommittee might conduct that would identify certain situations that indicated the possible existence of violation of the revenue laws.

"My answer to that was that, since the Service did not have sufficient manpower to examine all of the returns it would like to, any information it received along these lines which would identify particular situations that had a revenue potential or in which there was some indication of noncompliance with the revenue statutes, would of course improve the Service's efficiency in administering the tax laws.

"The foregoing represents my best recollection of the conversation which ensued during the January 15th meeting.

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There were no specific tax cases discussed. The only court decision to which reference was made was the Ninth Circuit decision involving Local No. 174.

"I have shown this memorandum to Mr. Swartz and Mr. Coard and they have indicated that it also represents their recollection of the meetings which they respectively attended."

* * * * * *

DEFENDANT'S EXHIBIT NO. 16

INVESTIGATION OF LABOR RACKETEERING

Mr. IVES. Mr. President, in keeping with a statement which I made late in the last session of the Congress, I am resubmitting today a resolution providing for an investigation of labor racketeering by the Senate Committee on Labor and Public Welfare, or by a subcommittee thereof.

I recognize that, since the submission of the similar resolution last July 5, the Senate Permanent Subcommittee on Investigations has done much preliminary work in this field. The staff of that subcommittee has produced a considerable amount of material which will be of great value in any overall investigation which is authorized by the Senate.

Despite this valuable activity by the Senate Permanent Subcommittee on Investigations, I feel strongly that the entire subject of racketeering in organized labor lies squarely within the jurisdiction of the Committee on Labor and Public Welfare. Labor racketeering affects the whole field of labor-management relations; it also affects directly the public welfare, which is endangered so long as racketeering exists.

It is in line with this thinking that I am submitting again a resolution which would give to the Committee on Labor and Public Welfare the funds necessary to carry out an investigation of labor racketeering.

I find it difficult to express how strongly I feel the necessity for such an investigation. Racketeers intimidate honest workers and pervert the purpose of the labor movement. They add incalculably to the cost of

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doing business, and thereby to the price paid by consumers. They flout their government and make a mockery of its duty to preserve law and order.

In my opinion, only the Congress has the power to deal with this nationwide problem in the vigorous and comprehensive manner required. Undoubtedly the investigation which I have proposed would lead in time to recommendations from the Labor and Public Welfare Committee for strengthening the Federal law regarding racketeering. I am certain that the law needs strengthening.

It is regrettable, but true, that an investigation of this nature will have difficulty in avoiding charges that it is baiting labor or bringing politics into labor-management relations. We are dealing here, however, with a subject which is far too serious to permit any maneuvering for political advantage or any attempt to persecute labor.

I made a promise when I submitted the similar resolution last year, and I should like to renew it now. As a member of the Committee on Labor and Public Welfare, I shall do all that is within my power to make certain that this investigation, if it is authorized, shall be conducted without partisanship and with scrupulous fairness to labor organizations, employers and other interested parties.

Mr. President, on behalf of myself and the Senator from Connecticut (Mr. Purtell), I submit the resolution for appropriate reference

The resolution (S. Res. 13) providing for an investigation of labor racketeering by the Senate Committee on Labor and Public Welfare, or by a subcommittee thereof, submitted by Mr. Ives, for himself and Mr. Purtell, was ordered to lie on the table, as follows:

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized and directed to make a comprehensive study and investigation of the penetration of criminal elements into, and their influence on, organized labor in the United States, for the purpose of ascertaining whether legislation is

necessary for the protection of labor organizations, employees, employers, and the general public. The committee shall report its findings, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date.

SEC. 2. For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed $250,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee.

INFILTRATION OF CRIMINALS, ETC., INTO THE FIELD OF ORGANIZED LABOR

Mr. McCLELLAN. Mr. President, I am submitting a resolution providing funds and authority to conduct an urgently needed investigation of such magnitude that it requires additional funds beyond those ordinarily needed for the general functions of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations.

This investigation involves the infiltration of criminals and hoodlums and dishonest elements into the field of organized labor. May I say at the outset, it is not the intention of my committee or its subcommittee to infringe on the authority or jurisdiction of the Committee on Labor and Public Welfare, nor is it the intention of the committee to interfere with legitimate union activities. We seek only to help legitimate unions to function without the interference and influence of criminals and hoodlums.

Although our investigation may touch on some aspects of labor law, it concerns itself primarily and to a larger degree with such matters as Government procurement, Government operations, violations of our tax laws, interference with interstate commerce, and violations of criminal laws and the failure to file the full and complete financial records under Public Law 101, 80th Congress.

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We do not intend to examine into labor matters such as wages, and hours regulations, regulations affecting labor disputes, or other purely labor functions.

The jurisdiction of the Committee on Government Operations, as its name implies, involves an examination into the operation of all branches of the Government. I wish to point out that the scope of this investigation is broader than merely matters pertaining to the Department of Labor.

Without seeking to disparage any other committee, I feel that the Senate Permanent Subcommittee on Investigations, by reason of the long experience and efficiency of its staff, is the best equipped to conduct this type of investigation.

For the past 4 months, a majority of the staff of the subcommittee has been engaged in a preliminary investigation in New York City, Chicago, Seattle, Portland, Los Angeles, Minneapolis, Philadelphia, and other areas, and has uncovered specific evidences of collusion between dishonest employers and union officials, extortions, the use of violence by certain segments of labor leadership, the diversion and misuse of labor union funds by high-ranking dishonest union officials for their own profit and gain, and large-scale frauds in income taxes.

Furthermore, for the past 2 years this committee has been studying Army procurement matters which involve collusion between dishonest contractors and criminals who have managed to seize control of certain unions.

The Senate Permanent Subcommittee on Investigations as early as last May 17 and May 29 held executive hearings and brought before it such well-known criminals as the notorious John Dioguardia, alias Johnny Dio; his brother, Tommy Dioguardia; Albert Anastasia, notorious as one of the gunmen of Murder, Inc., and reputed to be involved in a large number of unsolved murders; Harry Stromberg, Joseph Profaci, and James Plumeri, all well-known underworld characters who were either directly or indirectly connected with the pattern of

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underworld control of unions and the dishonest contracting firms acting in collusion with labor fronts.

The investigation into these hoodlum activities has broadened into a nationwide investigation into similar racketeer controls over unions, whose activities, if left unexposed and unchecked, will have an impact not only on Government procurement, but may seriously impair the efficiency, economy, and the operation of Government.

In one instance, we have evidence indicating that dishonest teamster officers sought to use their union power to take over the control of the municipal government for the purpose of controlling vice, including gambling and prostitution.

In this connection, I ask unanimous consent to have printed in the Record at this point as a part of my remarks, a letter which I received from the city council of Portland, Oreg., formally requesting that my committee investigate this matter.

There being no objection the letter was ordered to be printed in the Record as follows:

City of Portland, Oregon.,
December 21, 1956.

Hon John L McClellan,
Chairman, Investigations Subcommittee
of Governmental Operations Committee,
Senate Office Building, Washington, D. C.

Dear Senator McClellan: As auditor of the city of Portland, Oreg., I have been directed by the city council, the governing body of the city of Portland, to extend to your investigations subcommittee an invitation to hold, here in Portland, your current investigations concerning activities of the International Brotherhood of Teamsters and vice conditions in the Pacific Northwest. The council of the city of Portland approved this invitation as a result of discussion concerning newspaper reports of possible delays to the committee in examining records and reports, and approved the view that. An investigation hearing held in Portland, Oreg., would minimize delays to the committee; would permit

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city and State officials to testify as the committee may desire and supply their records to the committee as it may request, with greater facility; and, would afford to the 13,000 members of the teamsters' union in the greater Portland area, a wider knowledge of organization operations.

I am further directed by the city council to assure you and the committee that, if the committee so desires, it may have the use of the city council chambers with recording equipment for use of the committee, and that the city of Portland will make available to the committee the facilities of the Bureau of police of the city of Portland, insofar as the committee may desire to use such facilities, and will offer the full cooperation of the city of Portland.

Yours respectfully,

WILL GIBSON,
Auditor of the City of Portland.

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SUBCHAPTER B. -MISCELLANEOUS PROVISIONS

SECTION 6103. - PUBLICITY OF RETURNS AND LISTS OF TAXPAYERS

26 CFR 301.6103(a)-101: Inspection of returns by committees of Congress other than those enumerated in section 6103(d) of the Internal Revenue Code of 1954. T.D. 6132

Title 26-Internal Revenue, 1954.-Chapter 1, Subchapter F, Part 301.-Procedure and Administration

Inspection of certain returns by committees of Congress other than those ennumerated in section 6103(d) of the Internal Revenue Code of 1954.

TREASURY DEPARTMENT,
Washington 25, D. C.

To Officers and Employees of the Internal Revenue Service and Others Concerned:

Sec. 301.6103(a)-101. Inspection of Returns by Committees of Congress Other Than Those Enumerated in Section 6103(d) of The Internal Revenue Code of 1954. -(a)(1) Pursuant to the provisions of section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753;26

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U.S.C. 6103(a)), any return with respect to income, estate, or gift tax imposed by the Internal Revenue Code of 1954 shall be open to inspection by any committee of the Congress, or any subcommittee of a committee of the Congress, specially authorized to inspect such returns by an Executive order issued under the aforementioned statutory provisions on or after the date of the approval of this Treasury Decision. Such inspection shall be subject to the conditions and restrictions imposed by the Executive order and the rules and regulations hereinafter prescribed.

(2) Only such of the aforementioned returns as are specified in a resolution adopted by the committee in accordance with the rules of the appropriate house of the Congress then applicable to the reporting of a measure or recommendation from such committee shall be open to inspection. Such resolution shall set forth the names and addresses of the taxpayers whose returns it is necessary to inspect and the taxable periods covered by the returns. The inspection of returns authorized in this section may be made by the committee of the Congress, or the subcommittee of a committee of the Congress, authorized as provided in subparagraph (1) of this paragraph, acting directly as a committee or as a subcommittee, or by or through such examiners or agents as such committee or subcommittee may designate or appoint in its written request hereinafter mentioned. Upon written request by the chairman of such committee or of such subcommittee to the Secretary of the Treasury, giving the names and addresses of the taxpayers whose returns it is desired to inspect and the taxable periods covered by the returns and stating that the resolution hereinbefore mentioned with respect to the inspection of such returns has been duly adopted by such committee or by the committee under which such subcommittee functions, the Secretary or any officer or employee of the Department of the Treasury, with the approval of the Secretary, shall furnish such committee or subcommittee with any data relating to or contained in any such return, or shall make such return available for inspection by such committee

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or subcommittee or by the examiners or agents designated or appointed by such committee or subcommittee. Such data shall be furnished, or such return shall be made available for inspection, in an office of the Internal Revenue Service. Any information thus obtained by such committee or subcommittee shall be held confidential: Provided, however, That any portion thereof relevant or pertinent to the purpose of the investigation may be submitted by the investigating committee to the appropriate house of the Congress.

(3) This section shall not be applicable to any committee authorized by section 6103(d) of the Internal Revenue Code of 1954 to inspect returns.

(b) Because this Treasury Decision constitutes a general statement of policy and establishes a rule of Departmental practice and procedure, it is found that it is unnecessary to issue this Treasury Decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(c) This Treasury Decision shall be effective upon its filing for publication in the Federal Register.

G. M. HUMPHREY,
Secretary of Treasury.

Approved May 3, 1955
Dwight D. Eisenhower,
The White House

(Filed with the Division of the Federal Register May 3, 1955, 5:02 p. m.)

INSPECTION OF INCOME, ETC.,
No. 10606
May 5, 1955, 20 F. R. 3017

INSPECTION OF INCOME, EXCESS-PROFITS, DECLARED-VALUE EXCESS-PROFITS, CAPITAL-STOCK, ESTATE, AND GIFT TAX RETURNS BY THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

By virtue of the authority vested in me by sections 55(a), 508,

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603, 729(a), and 1204 of the Internal Revenue Code of 1939 (53 Stat. 29, 111, 171; 54 Stat. 989, 1008; 55 Stat. 722; 26 U.S.C. 55(a), 508, 603, 729(a), and 1204), 61 and by section 6103(a) of the Internal Revenue Code of 1954 (68A Stat. 753; 26 U.S.C. 6103(a), 62 it is hereby ordered that any income, excess-profits, declared-value excess-profits, capital-stock, estate, or gift tax return for the years 1945 to 1954, inclusive, shall, during the Eighty-fourth Congress, be open to inspection by the Senate Committee on Government Operations, or any duly authorized subcommittee thereof, in connection with its studies of the operation of Government activities at all levels with a view to determining the economy and efficiency of the Government, such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the two Treasury decisions, relating to the inspection of returns by committees of the Congress, approved by me this date.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

THE WHITE HOUSE,
May 3, 1955.

DWIGHT D. EISENHOWER

DEFENDANT'S EXHIBIT NO. 24

CONGRESSIONAL RECORD - SENATE
(July 5, 1956)

INVESTIGATION OF PENETRATION OF CRIMINAL ELEMENTS INTO ORGANIZED LABOR

Mr. IVES. Mr. President, every American is shocked from time to time by evidence that criminals are at work in the labor movement. I believe - I hope correctly - that only a small fraction of the Nation's labor unions have been infiltrated by these evil men. But the truth is that no one knows the extent to which racketeers have moved in on the labor movement.

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Victor Riesel, a distinguished labor columnist, contends that labor racketeers have a considerable impact on our national economy. Mr. Riesel has fought for years to expose these criminals. He has paid an awful penalty for his efforts: Early in April a thug walked up to Mr. Riesel on a sidewalk in New York City and threw acid into his eyes. Mr. Riesel is now blind as a result of the attack, which could only have been made in retribution for his fight to root out the racketeers in the labor movement. Blinded for life, but not daunted, Mr. Riesel has returned to the fight. I admire his courage profoundly.

Now Mr. Riesel has called for a congressional investigation of racketeering in labor. He has urged that it be made by labor's friends in Congress, and he has graciously included me in that category.

My first reaction to Mr. Riesel's suggestion was that a congressional investigation would be unwise because of the opportunities it would offer for charges--however unfair--that it was a persecution of labor, or that it was being used to make political capital at labor's expense.

But I have decided, upon further reflection, that the Congress is the only forum in the land with the power to expose fully the extent to which racketeers have penetrated organized labor in the United States and to take adequate corrective action.

The problem of labor racketeering crosses State lines. The criminals in labor naturally take great pains to conceal themselves and the nature of their activities. Only the congressional investigatory and legislative power can deal with this nationwide problem on a nationwide basis.

Therefore, Mr. President, I am submitting today a resolution calling on the Senate Committee on Labor and Public Welfare to undertake such an investigation. I recognize at this late date in the congressional session the resolution is unlikely to be considered before adjournment. I submit it now for the purpose of stimulating thinking on this vital subject. I shall resubmit the resolution early in January, after the

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convening of the 85th Congress; and I shall urge speedy action on it.

As a member of the Committee on Labor and Public Welfare, I shall do all in my power to make certain that this investigation--if it is authorized--is conducted without partisanship and with scrupulous fairness to labor organizations, employers, and all other interested parties.

Mr. President, I submit the resolution, and ask that it be appropriately referred.

Because of its brevity, I ask unanimous consent to have the text of the resolution printed at this point in the body of the RECORD in connection with my remarks.

The PRESIDENT pro tempore. The resolution will be received and appropriately referred; and, under the rule, the resolution will be printed in the RECORD.

The resolution (S. Res. 304) submitted by Mr. IVES, was referred to the Committee on Labor and Public Welfare, as follows:

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized and directed to make a comprehensive study and investigation of the penetration of criminal elements into, and their influence on, organized labor in the United States, for the purpose of ascertaining whether legislation is necessary for the protection of labor organizations, employees, employers, and the general public. The committee shall report its findings, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date.

SEC. 2. For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed $250,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee

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82d CONGRESS
1st Session S. 1959

IN THE HOUSE OF REPRESENTATIVES
August 23, 1951
Referred to the Committee on Education and Labor

AN ACT

To amend the National Labor Relations Act, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Labor Relations Act, as amended, is hereby further amended as follows:

(a) By adding at the end of said Act the following new section:

"SEC. 18. No petition entertained, no investigation made, no election held, and no certification issued by the National Labor Relations Board, under any of the provisions of section 9 of the National Labor Relations Act, as amended, shall be invalid by reason of the failure of the Congress of Industrial Organizations to have complied with the requirements of section 9 (f), (g), or (h) of the aforesaid Act prior to December 22, 1949, or by reason of the failure of the American Federation of Labor to have complied with the provisions of section 9 (f), (g), or (h) of the aforesaid Act prior to November 7, 1957: Provided, That no liability shall be imposed under any provision of this Act upon any person for failure to honor any election or certificate referred to above, prior to the effective date of this amendment: Provided, however, That this proviso shall not have the effect of setting aside or in any way affecting judgments or decrees heretofore entered under section 10 (e) or (f) and which have become final."

(b) Subsection (a) (3) of section 8 of said Act is amended by striking out so much of the first sentence as reads "; and (ii) if, following the most recent election held as provided in section 9 (e), the Poard shall have certified that at least a majority of the employees eligible to vote in such election have voted to authorize such labor organization to make such an agreement" and inserting in lieu thereof the

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following: "and has at the time the agreement was made or within the preceding twelve months received from the Board a notice of compliance with sections 9 (f), (g), (h), and (ii) unless following an election held as provided in section 9 (e) within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement:"

(c) Section 9 (e) of such Act is amended by striking out all of subsections (1) and (2) and inserting in lieu thereof the following: "(1) Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to section 8 (a) (3), of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer." Renumber subsection "(3)" as "(2)".

(d) Subsections (f), (g), and (h) of section 9 of such Act are amended by striking out the words "No petition under section 9 (e) (1) shall be entertained," where they appear in each of such subsections.

Passed the Senate August 21 (legislative day, August 1), 1951.

Attest:

LESLIE L. BIFFLE,
Secretary.

DEFENDANT'S EXHIBIT NO. 28

Mr. McCLELLAN. Mr. President, on January 16, 17, 18, and 19, the Senate Permanent Subcommittee on Investigations, a subcommittee of the Committee on Government Operations, began the holding of hearings pursuant to a preliminary investigation the committee had been conducting for some time, looking into conditions that prevail in certain areas of labor and management relations.

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At that time we had before us the Secretary of Labor; also, the chairman of the National Labor Relations Board; and a representative of the Treasury Department, I believe Mr. Winkle.

We took testimony from those witnesses regarding the problems of Government in those areas, particularly with respect to existing law, and to what extent those agencies of Government could check against the accuracy of reports and financial statements that labor organizations are required to file with the Government under the law before they can receive the advantage of the services of the National Labor Relations Board and other benefits provided by law.

We found, Mr. President, that their authority in that area is quite limited and quite restricted. We found that what we had ascertained was possibly true, namely, that in some areas some unions were not filing truthful and accurate reports of their financial transactions, and that the Government was being imposed upon by the setting up of what is known as paper unions that had not complied with the law. We found that the officers of the governmental agencies involved had no authority, according to their interpretation of the law, to take any action other than simply to issue certificates or letters of compliance, and also to make available the services the law provides, notwithstanding that the information supplied by some unions in their reports was inaccurate, false, and known to be false, and was intended to constitute an imposition upon the Government.

We also found, Mr. President, that certain racketeering practices were going on in areas where the Federal Government was procuring goods in the nature of military uniforms and other clothing, and that the racketeering was having an impact upon the cost to the Government of those goods, also resulting, in some instances, in goods being supplied which were inferior to those contracted for.

Our investigation extended to the west coast, to the teamsters union There it became desirable to hear witnesses from certain labor organizations, and also to hear some witnesses from labor unions in New York.

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Mr. Brewster is president of what is known as the Western Conference of Teamsters, a group of labor organizations comprising locals in 11 of the Western States. Mr. Brewster was subpenaed before the committee to testify. He was subpenaed to testify and also to produce certain records of the Western Conference, as well as the records of a certain teamsters' local -- Joint Council 28 of the Teamsters in Seattle, I believe, of which he is president.

The subpenas were duly served. Mr. Brewster appeared and took the position that the committee had no jurisdiction of him or of the records, or of the subject matter into which the committee was inquiring. Therefore he refused to answer any questions propounded to him by any member of the committee. He stood upon that challenge of the jurisdiction of the committee.

The committee, under the rules of the Senate, is charged with the duty of studying government at all levels, with a view to determining its efficiency and economy. That is the overall duty with which this committee is charged. It is the position of the committee that it would be derelict in its responsibility if, having information that the practices which I have described prevailed in any union or in any area of the country, it did not inquire into them.

Therefore the issue is joined. This committee will be useless hereafter to the United States Senate if this challenge of its authority and its jurisdiction is sustained.

It is not a challenge merely to the committee. It is a challenge to the United States Senate. It is a defiance of the authority of the United States Senate to determine the facts, through this committee, which has the overall duty and responsibility of policing Government agencies. It is a defiance of this committee and of the authority of the Senate to inquire whether certain labor officials, who have the duty under the law enacted by Congress to file truthful statements of their financial and other activities, have done so.

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There is involved a challenge to the authority of the committee to inquire into whether or not labor officials are honestly complying with the law, or whether they are evading the law and committing an imposition upon the Government, and thus Government in this respect is inefficient, and whether remedial legislation is needed.

That is the issue, and I trust the Senate will uphold its Committee in the action it has taken. I may say that not only did the subcommittee unanimously recommend this action, but it has been unanimously approved by the full Committee on Government Operations.

Mr. LONG. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am very happy to yield to my good friend from Louisiana.

Mr. LONG. As one who once had the honor of serving on this very committee under the chairmanship of the able Senator from Arkansas, I assure him that I will certainly vote to uphold his committee.

I should like to state further that some time ago I noticed that a district Federal judge undertook to hold that a witness could not be in contempt of a congressional committee unless the rules of the Senate provided almost explicitly for the investigation of the particular item involved.

In other words, if a question were somewhat irrelevant, or merely parallel to the investigation, and if it were sought to obtain information which might not have been specifically requested by the Senate, the witness could not be held in contempt. I am frank to say that, as a Member of the legislative branch, I personally resent having any Federal judge attempt to strip the legislative branch of the power granted to it by the Constitution. I urge Members of this body not to confirm, in the future, the homination of judges who take such a view.

Mr. McCLELLAN. Mr. President, in my judgment, if a challenge could be sustained against the power of the Senate to investigate, it could be sustained against the power of the Congress to legislate. I

think that is fundamental.

Mr. CHAVEZ. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. CHAVEZ. I wish to congratulate the Senator from Arkansas for his statement. I think he is doing very fine work for the American people.

I am one of the so-called liberals in the United States Senate. I have always tried to be for labor. However, there have been instances in which labor did not follow proper practices. There is no reason why the challenge by any group, or any individuals within a group, of the authority of the committee to inquire as to what is going on, should prevail. I congratulate the Senator. I say this as a friend of labor. I think the Senator from Arkansas is doing a great thing for labor.

Mr. McCLELLAN. I thank the distinguished Senator from New Mexico.

Mr. WILEY. Mr. President, I should like to say to the distinguished Senator from Arkansas that I agree with his committee's conclusion that in this troubled and very small world, it is imperatively necessary that his committee have the support he seeks.

Mr. McCLELLAN. I thank the Senator very much.

I wish to point out one thing more. I spoke of the duty and responsibility of the committee with respect to studying Government on all levels, with a view to determining its efficiency and economy. The committee is also charged with the duty, after having made such studies, to make recommendations to the Senate with respect to legislation which may be needed to improve the economy and efficiency of the Government.

I may say that there is an area here in which, if the present interpretation of existing statutes is correct, very definitely further legislation is needed in order to remedy some conditions the committee has already found to exist, particularly the condition into which it was inquiring at the time this witness testified.

I am ready for the question to be submitted, unless other Senators wish to speak.

EXCERPTS FROM TRANSCRIPT OF PROCEEDINGS

1 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES)
v.) Criminal No. 289-57
FRANK W. BREWSTER)

Washington, D. C.,
Wednesday, June 12, 1957.

The above-entitled cause came on for trial before Honorable John J. Sirica, United States District Judge, at 10:00 o'clock a. m.

APPEARANCES:

On behalf of the United States:

William Hitz.

On behalf of Defendant Frank W. Brewster:

John K. Pickens
Jerry N. Griffin
Robert E. Watkins,
731 Washington Building,
Washington, D. C.

2 THE COURT: You may proceed.

THE DEPUTY CLERK: The case of United States versus Frank W. Brewster.

MR. HITZ: The government is ready.

MR. PICKENS: I would like to make one or two preliminary motions. For the record--and I don't wish to take up the Court's time or belabor these motions--I wish to renew the motion to continue the case for an indefinite period of six months, on the ground that so great a prejudice exists in the District of Columbia that the defendant would not obtain or an impartial jury could not be impanelled because of the mass publicity that has been created and engendered by the Senate Select Committee who investigated improper activities in the labor management field.

Now last week your Honor will recall that I argued the motion

before the Court to dismiss--

* * * * * *

3 MR. PICKENS: Thank you, your Honor.

Your Honor I think will recall that last week we argued a motion before the Court to dismiss the indictment on the grounds that an impartial grand jury could not be impanelled because of the publicity that was engendered by this same Senate Select Committee prior to the time that the grand jury handed down the indictment of Frank Brewster.

Now in connection with that argument, I showed your Honor, I believe, twelve or fourteen exhibits of the some thirty exhibits that were used on the prior motion of Judge Laws, and I believe at that time your Honor also saw many of the other exhibits that we introduced at the time of the prior hearing under Judge Laws.

For that reason I don't wish to re-argue that motion. I just wish to renew it, unless your Honor has some specific question or inquiry.

THE COURT: No. Your motions have already been passed on, Mr. Pickens. I will deny your motion.

MR. PICKENS: Then I just wish to renew for the record, your Honor, the motion that I made before your Honor last week, to dismiss the indictment on the ground that the mass publicity engendered by the same Committee made it impossible to select an impartial grand jury.

I believe your Honor denied that last week.

THE COURT: I will deny it.

4 MR. PICKENS: I will state to the Court at this time, and after consultation with defendant, we have determined that we will waive a jury in this case.

THE COURT: Will counsel come to the bench?

(Bench conference.)

THE COURT: As I understand it, there must be, before you can waive a jury trial, counsel for the defendant must obtain the consent of the Government and the Court. Now, I have no objection whatsoever of trying this case without a jury.

Do you object?

MR. HITZ: We do not.

THE COURT: No. But I think I ought to tell you this, which may have some bearing--I don't know why it should but I am going to tell you this, and it may have some bearing on whether or not you want to try the case before the Court, without a jury.

Now do you expect to call Mr. Kennedy as a witness?

MR. HITZ: Yes, I do.

THE COURT: It so happens that I played a round of golf with Mr. Kennedy, I think a little over a year ago. A friend of mine called me, who is a very good friend of Mr. Kennedy, and asked me if I would like to join him at the Congressional Club. That is the only acquaintance I have with him. But I thought you ought to know that, if that has any effect on you as to whether you would call a jury. It is entirely up to you.

MR. PICKENS: I appreciate your Honor's statement.

THE COURT: I assure you it has absolutely no effect on me. In connection with that, I belong to the Congressional Club--do you belong there?

MR. PICKENS: No, I do not.

THE COURT: We have sort of a practice or policy out there that some member, whom we know very well, who has endorsed a person for membership in the Club, calls you and asks you or tells you that he would make a good member, would you write a letter, and you can write a letter based on the strength of what the member tells you. I had this friend of mine, he said, "You go ahead and write the letter and I will be glad to sign it."

Now I don't think I have seen Mr. Kennedy--I am positive I did not--since we played ball. I did know in his lifetime Senator McCarthy. I don't know how many people knew the Senator. But as I say, that has absolutely no bearing on my feeling in this case, and I know it is not ground for disqualification, and I am not going to disqualify myself.

MR. PICKENS: Our jurisdiction is of the Committee in January.

THE COURT: I know that. I didn't know whether you were going

to try it before the jury or not. If you had taken a jury trial I wouldn't have bothered mentioning this to you. I wanted you to know my slight acquaintance with Mr. Kennedy.

MR. PICKENS: I appreciate it, but that wouldn't make any difference.

THE COURT: I didn't think so.

MR. HITZ: Have you your written waiver?

THE DEPUTY CLERK: I am going to fix it now.

MR. PICKENS: I have one further motion to make.

THE COURT: Very well.

(In open court:)

THE COURT: Are both sides ready?

MR. HITZ: The government is ready.

THE COURT: Do you desire to make an opening statement?

MR. HITZ: I do.

MR. PICKENS: I have one further motion. I am sorry.

I wish to move at this time, your Honor, to continue this case for thirty days on the grounds of hardship for counsel, and to give us adequate time to prepare.

I argued a continuance on the ground of the mass publicity before Judge Laws on May 22, as your Honor knows, and he started to set this case down for trial on June 17th, and Mr. Hitz objected because he said that he wanted to try the Brewster case before he tried the LaPoma case, or before he tried the case involving Mr. Einar Mohn.

In view of Mr. Hitz' statement, Chief Judge Laws set this case down for today. I protested at the time that I had an argument before the United States Court of Appeals of the Fourth Circuit for today. However, after Judge Laws denied my motion for continuance for six months, he made arrangements with Chief Judge John J. Parker of the Fourth Circuit to advance the argument on this Rosedale Coal case I had until June 10th.

I argued the Rosedale case day before yesterday.

Now of course, in the interim, it was necessary to prepare a brief and oral argument in the Rosedale case.

I had another case on appeal in the U. S. Court of Appeals for the District of Columbia, where the brief was due on the 24th of this month. I obtained an extension of time in that case to file a brief until August 24th.

I had another brief due before an administrative agency here. I have obtained an extension in that case until July 15th.

I have done anything, I think, humanly possible to comply with the wishes of the Court. I know the local rule on continuances speaks of twenty-five cases. I have only six or seven in the District Court at the present time.

Now, although we represented Mr. Brewster at the hearings before the Subcommittee--I mean before the Permanent Select Committee of the Senate on Improper Activities in Labor Management, we did not represent him at the time that he appeared in January before the Permanent Subcommittee, of the Committee on Government Operations.

We did not know, we did not receive word that we were to represent Mr. Brewster in this case until, I believe, it was April 15th, 1957.

My partner, Mr. Griffin, and my associate, Mr. Watkins, have worked steadily on this case for at least, I would say, the past month. I know some people think that the question of authority of the Permanent Subcommittee is a simple one. We have found that it is a very complex question. My associates have unearthed a large amount of material. I have been unable to digest all of it. I won't say they have only scratched the surface--I think they have uncovered probably more than half of it--but they still have not completed their research.

Now Mr. Hitz, I know, has tried thirty-some contempt of Congress cases. It is much easier for him to prepare than it is for a private practitioner that is trying his first one.

I don't wish to unduly delay this matter, but in most of

these other indictments for Contempt of Congress, the last one was tried,

9 for example, before Judge McLaughlin, the Miller case, I know that it was approximately a year from the time that Mr. Miller committed his contempt, as alleged in the indictment, until he went to trial in May of this year.

I note in the O'Connor case, which was another case in this District, of the year before, that it was approximately two years between the time that Mr. O'Connor committed his contempt and the time that he went to trial.

Now three months have not gone by since Mr. Brewster was indicted.

He has appeared and testified for five full days before the Senate Select Committee. So it seems to us that he has removed the obstruction, if any, to any proper legislative purpose, if any, that that subcommittee had at the time.

I know Judge Laws made the statement that these cases had to be tried in June. I know Mr. Hitz is insisting that these cases have to be tried, and I can't understand what the hurry is or what the pressure is.

We honestly, your Honor, have not had the time--I have not had the time--to adequately prepare this case. I am not asking for this continuance for thirty days for the purpose of delay. I am asking it solely for the purpose of better preparation. I have not been able to prepare a trial brief which I think puts both the defendant and, I think,

10 the Court at a disadvantage in trying this case.

So for those reasons, your Honor, I request that extension.

THE COURT: I will deny the motion.

* * * * * *

12 OPENING STATEMENT ON BEHALF OF THE GOVERNMENT

MR. HITZ: Your Honor, this ~~file~~ trial is one of Contempt of Congress for the alleged failure of Frank W. Brewster to answer some thirty-one questions.

* * * * * *

13 I want to emphasize that the Operations Committee of the Senate, the Government Operations Committee, has continually, since 1948, granted to this particular subcommittee in each session of Congress, the full powers of the full committee to make its legislative investigations.

* * * * * *

16 THE COURT: Now, in connection with the paragraph on Committee Operations, is it your position that the Government is relying on all of these subsections A, B, and then 2-A, B, and C?

Or are you basing your case solely on Paragraph B, subsection 2, which states as follows: "Studying the operation of Government activities at all levels with a view to determining its economy and efficiency?"

MR. HITZ: We are relying principally in part on 2-B, and C, and we do not exclude the others.

THE COURT: Very well.

MR. HITZ: And to repeat, and most importantly in this case, "Studying the operation of Government activities at all levels with a view to determining its economy and efficiency."

Now of course those were among the powers of the full committee which were delegated to the subcommittee in 1957. This took place at an organization meeting of the full committee on Government Operations on January 14, 1957. And we will introduce excerpts from the minutes of that organizational meeting--that Reorganization meeting.

At that meeting of the full committee, at which there

17 was a quorum present, the various subcommittees of this full committee were designated and were created. They were created again before this particular session of Congress which was the practice of the Senate at that time. The subcommittees of each committee were recreated for each Congress.

The members of the subcommittee, to comprise these subcommittees, were designated.

The Labor Racketeering Investigation, so-called, in

which Mr. Brewster and others were called as witnesses, was taken up in this organization meeting of the full committee and it was stated by the chairman of the committee, Senator McClellan, that there would be hearings commencing that same week on the subject of labor racketeering, as a general statement and summary of the purposes of the subcommittee hearings, and that they would be carried on ~~before~~ for the full committee by the Senate Permanent Committee on Investigations, the one issued here.

On the 16th of January, the Permanent Subcommittee on Investigations which probably I will be calling the Investigations Subcommittee, met, and there was a statement made--an opening statement made--by Chairman McClellan, as to the scope of these particular hearings.

He stated that during the past two years the subcommittee had been making an investigation of the procurement of textiles and uni-
18 forms by the Armed Services; and then in the course of that investigation it developed that there was collusion between certain dishonest management and union officials, which had the effect of increasing the cost to the Government of the goods and commodities it purchased, as well as of reducing the quality of the materials that were supplied for that purpose.

These conditions, obviously--and it was noted by Chairman McClellan--adversely affected the economy and the efficiency of the Government, which is one of the fields into which this full committee, now the subcommittee, was empowered to make an investigation.

Now having discovered what it did in the field of procurement of supplies and uniforms for the Armed Services, the subcommittee of course was aware of legislation then in effect having to do with the control of labor management relationships, particularly the labor management relations act of 1947, which was passed in order to protect the flow of commerce from racketeering practices, both by labor and by management, and to see that the flow of commerce persisted as it should.

In addition to that, Chairman McClellan at the opening of these particular hearings, noted that the Internal Revenue laws then in

effect provides income tax or other tax exemptions for unions, under conditions which indicated that the right to obtain such exemptions was

19 extended to labor unions regardless of what their practices internally might be, and whether or not there was a proper use and the proper source, indeed, of the various funds that came into its hands.

* * * * * *

26 Now Chairman McClellan was not certain, nor was the Committee certain when it commenced these hearings, that the Labor Relations Board and the Labor Department were without power under the Act to check the truthfulness and accuracy of the reports of the financial dealings and activities of labor unions. They initially set out to find that out and they did find it out by calling the first several witnesses. The first witness being the Chairman of the National Labor Relations

27 Board, Mr. Boyd Leedom.

* * * * * *

31 Now the Subcommittee subpoenaed Mr. Boyd Leedom, Chairman of the National Labor Relations Board, who was the first witness. He appeared on the same day that the Chairman made the statement that I have read part of, January 16, 1957.

It called James P. Mitchell, Secretary of Labor, the next witness, and Justin F. Winkle, Assistant Commissioner of Internal Revenue.

It also had under subpoena a number of officials of the Teamsters Union who later appeared in subsequent hearings of this subcommittee. Among them and the first of them was Frank Brewster, the defendant here, who appeared on the 16th at what I believe was an Executive Session, and then again on the 19th which is the public session which gave rise to the instant contempt prosecution.

32 These government officials by way of a brief summary testified that they had no authority under the laws under which they operated in the case of the Labor Board and the Labor Department, is the Labor-Management Act of 1947 that I have referred the Court to, and some other Act that the Internal Revenue Bureau was acting under,

had no authority to check the truthfulness and accuracy of the Union reports of receipts, expenditures of funds, and so forth.

I should digress for a moment, perhaps, to indicate the very unusual system, I think it is fair to say, that was adopted to carry out the purposes of this Labor Act.

These matters of divulgence of receipts and expenditures and so forth by Labor Unions seeking the enforcement of their rights by the Board, would be made to the Labor Department who would keep and never show to the Labor Board the reports, and there would be a postal card--a sort of a postal card, a double-barreled postal card, that the Labor Department would send back to the Union. It would be in two parts. The Union would tear off one part and keep it and tear off the other part and send it to the Labor Relations Board, and if the mail didn't miscarry, the Labor Relations Board would then pursue the enforcement of the rights of that Labor Union.

33 That was brought out in the testimony of Mr. Leedom.

And in the course of so testifying, he expressed the opinion that there should be some way to determine, either by his organization or by the Labor Department or by some government agency, the truthfulness and accuracy of these reports, so as to determine whether or not the union was indeed entitled to enforcement rights. And this occurred in the testimony of Mr. Leedom--and it is merely an example of much of what he had to say--and I am reading from the hearings of the permanent subcommittee on investigations that have been compiled and printed under the dates of January 16, 17, 18 and 19.

* * * * * *

38 THE COURT: (reading)

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Now in view of that statement by Mr. Leedom, that the

39 law was not adequate to compel labor organizations to make truthful disclosure of these reports that they had to file in order to get the benefit of, we will say, the services of the National Labor Relations Board in connection with labor disputes, do you contend now that the

committee had a right to interrogate Mr. Brewster in connection with all of the records that they requested him to bring before the committee?

Do you contend that the committee had a right, with a view to recommending remedial legislation or legislation that the committee felt was needed, to show wherein the law had to be strengthened or modified whereby the Labor Board or Labor Department would have more control and more right, we will say, for additional information? Is that your position?

MR. HITZ: We certainly do contend that. That is not our only contention, but we do contend that.

I am inviting the Court's attention to the fact that the two parts of the delegated authority to the Government Operations Committee, which have already been referred to, and particularly part "B" of it, does not relate to existing legislation but relates to the studying of the operation of government activities at all levels with the view to determining its economy and efficiency.

I would like to stress the fact that that goes way beyond existing legislation. It is the Government's activity of congressional interest by way of statutes, past or contemplated, in the field of Interstate Commerce which is the reason for this federal legislation as to unions.

And only one facet of it appears from Mr. Leedom's testimony. He said that the Act, if it intends to accomplish its purpose of complete and free flow of interstate commerce--

THE COURT: From what page are you reading?

MR. HITZ: I am not reading, your Honor. I am summarizing.

THE COURT: All right.

MR. HITZ: That if the purpose is to accomplish the full flow of commerce as is indicated from the purpose of the Act as I read it to you, that this Act as it is now on the books is inadequate, because it provides only for the filing of reports, not for the filing of truthful and accurate reports.

MR. HITZ: So we are contending that it is in the field of existing and contemplated and possibly legislation that this inquiry was made of Mr. Brewster and the others.

* * * * * *

41 The reason why it was engaging in this inquiry, what the inquiry was, what the legislation was with which the committee was faced, the loopholes that witnesses prior to Mr. Brewster indicated were in existing legislation, the apparent and both obvious necessity for the requirement not in the law books, not in the legislation, for truthful and accurate statements and reports--not merely the filing of reports.

* * * * * *

42 MR. HITZ: There were contentions made by Mr. Brewster and others from the Teamsters Union who were under subpoena, that this investigation is a subcommittee of the Government Operations Committee, lacked jurisdiction, lacked authority, to particularly obtain the documents that were subpoenaed from the union. That is, they put it that way. That is the way in which I think it came to the attention of the subcommittee that Mr. Brewster and others contested the subcommittee's authority, by reason of the subpoena duces tecum.

This is by way of a digression, but I think it will be a helpful explanation for something that will be admitted by your Honor in evidence, I am sure, and that is the excerpts from the Minutes of the January 14 organizational meeting of the full committee on Government Operations, which committee I have already indicated at that time set up for that session of Congress again the investigation of the subcommittee. And in the part of the minutes that have to do with stating that there will be hearings on labor racketeering commenced during the succeeding

43 week, there is a statement that there has been a question of committee jurisdiction raised. I am informed that the question of committee jurisdiction, really of subcommittee jurisdiction, it would be, that that question was one that was raised on behalf of the prospective witnesses, probably those who had received subpoenas duces tecum, because they are the only ones who would know the exact subject of the inquiry.

* * * * * *

Mr. Brewster did do just that on both of his appearances before this subcommittee, and he contested the pertinency of the materials sought and the questions asked--to put it in a technical way, pertinency to the purposes of the committee, and he contended that this committee did not have the power to ask these questions and to require production of these documents.

* * * * * *

45 So much for Mr. Brewster's actual appearance before the subcommittee.

I would like to make one general observation. It will be a bit in anticipation of what I am sure Mr. Pickens is ready to say to your Honor, and that has to do with the fact that after these hearings had been held at which most of the principal officers of the Teamsters were called, that there was a temporary or there was a recess in these hearings by this subcommittee and after some little time a Select or a Special Committee, comprising members of the Labor Committee of the Senate and of the Government Operations Committee of the Senate, a Select Committee was authorized by a Special Resolution of the Senate to conduct the remaining portions of the investigation undertaken by this investigations of the subcommittee of operations into the field of labor and management racketeering, or whatever name was given to it in that Special Resolution.

That was after this subcommittee, the Investigations Subcommittee had conducted four full days of hearings at which there were some twenty witnesses called, as will be seen from a document that the Government later will offer.

It is the position of the Government, obviously, from what I have said, that this full committee on Government Operations of the Senate had the power to make this investigation into the economy and the

46 efficiency of the operation of this Government activity, which is the investigation of the inquiry into and the regulation of the flow of interstate commerce; that that is a proper congressional field for

activity and interest; that the Congress delegated to this Committee fields of investigation which embraced that activity in the economy and efficiency of that activity, and that that was carried on by the subcommittee.

* * * * * *

48 Now, your Honor, I will conclude very briefly by getting back to the subject that I was on, which was the creation of the new Select or Special Committee which has since then carried on in much broader fields than was undertaken by the investigation committee, the
49 inquiry into racketeering or whatever they call it, in the field of labor and of management.

At no time so far as I ~~can be~~ am aware, and I have attempted to become aware, at no time did any Senator make any official statement in the Senate or anywhere else that the investigation that was being conducted by this Subcommittee of Government Operations, or which had been conducted by them after it had called Mr. Brewster and other witnesses, that no Senator at any time stated that this subcommittee, having the full committee authority, lacked authority to pursue this investigation of these records and to ask these questions of these union members and officials.

The only debate and the only questions that arose concerning this part of the Labor-Management investigation, the narrow field in which it started, the only debate had to do with the matter of policy and administrative procedure within the Senate, as to whether it would best be handled as a matter of policy and administration, by the Labor Committee, or by the Government Operations Committee--a matter of comity between the two; and in that connection I will later invite the Court's attention to the fact that Senator Ives of New York, who was the Chairman of the Labor Committee, who at one time desired itself exclusively to conduct these labor hearings, ultimately voted for the citation of Mr. Brewster and the others for the contempts alleged
50 to have been committed before this subcommittee.

We will contend for a view that there was authority within

this subcommittee, and that it did not rest exclusively in the [Ives] committee as a matter of right and authority, and that it was to be in his committee, according to him, only as a matter of administrative comity between the two committees. That, and because of some of these inquiries that had been made investigatively by the Investigations Subcommittee of Government Operations Committee, went into fields which could not have been taken up by the Government Operations Committee; because the investigation led farther into these fields, and there would not be authority, that led the Senate to authorize the Special Committee, and they are now conducting it in fields which we concede could not have been taken by this subcommittee.

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71 (At the Bench:)

MR. HITZ:

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Mr. Kennedy has informed me that he overlooked, in making some plans, the trial date of this case, and that he thought it was a day or two earlier, and he has been awarded an honorary degree that will be conferred upon him in Worcester tomorrow morning, and he has asked me to present to the Court his problem and that he would like, if possible, to have his appearance here excused tomorrow and to take it up, if he gets on today, again on Friday.

We could fill in some considerable part of tomorrow--I don't think we will waste the day--and I would like to present that to the Court and ask if his appearance could be postponed, even if it meant

72 several hours of postponement of the entire trial.

* * * * * *

77 MR. PICKENS: May it please the Court, in one of the questions that your Honor asked me earlier this morning about our contention as to the jurisdiction and authority of the Subcommittee on Government Operations to inquire about these financial forms that were to be filed with the Department of Labor and the National Labor Relations Board, of course we would concede that the Committee on Government Operations.

through its subcommittee, had the authority in connection with federal expenditures to call Judge Leedom, for example, the Chairman of the National Labor Relations Board, or Secretary Mitchell, the Secretary of Labor, and interrogate him as to the internal operations of that department, which might touch on these financial forms, but that in our conception of the case, your Honor, would be government operations at one level, and we say that beyond that this Committee certainly could not engage in a roving investigation of every private citizen that ever filed a form with one of these departments, or ever filed one of these labor forms.

* * * * * *

128 ROBERT F. KENNEDY

was called as a witness for and on behalf of the United States and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

129 BY MR. HITZ:

Q. Will you give your full name, Mr. Kennedy? A. Robert Francis Kennedy.

Q. Your occupation, sir? A. I am an attorney.

Q. And your present position? A. I am counsel for the Senate Select Committee on Labor-Management Relations.

Q. Are you connected at this time with the Government Operations Committee of the Senate, sir? A. No, I am not.

Q. With the Investigations Subcommittee of that Committee? A. I am not at the present time.

Q. Were you in January of 1957? A. Yes, I was.

Q. In what way? A. I was counsel for the Senate Subcommittee on Investigations.

Q. How long had you been counsel to that Subcommittee? A. For approximately two years.

Q. Were you its counsel in the conduct of the hearings on labor racketeering, so-called? A. I was. I was counsel in January of 1957 when we went into some matters that had to do with that.

130 Q. Now, Mr. Kennedy, the Minutes having to with the authorization, or rather with the notice to the members of the Government Operations Committee, of the impending labor racketeering investigation, had this to state--and I would like to ask you a question about it--but first to read the matter to you:

"Senator McClellan informed the Committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week on the question of labor racketeering, and that a question of committee jurisdiction had arisen between this committee and the committee on labor and public welfare."

Would you please tell me what the question was that had arisen as between the labor and public welfare committee and the government operations committee as to jurisdiction?

* * * * * *

131 Q. First, were you present at this meeting of January 14, 1957? A. I am not certain.

Q. Of the Full Committee? A. I think I was there for part of the meeting, and I think I was there during the discussion of matters dealing with the Senate Permanent Subcommittee on Investigations. But I doubt very much that I was there all of the time, and I am not sure whether I was there during that period of time.

Q. Whether you were there or not, Mr. Kennedy, are you aware of there having been at that time and prior to that time a question of jurisdiction as to the investigation of labor racketeering? A. Yes, there was.

Q. As between those two committees? A. There was a question.

Q. What was the question, and who raised it? A. Well, there was a question whether the Senate Permanent Subcommittee on Investigations had full jurisdiction to go into this investigation and make this investigation. Senator Ives of the Labor Committee, had offered a

132 resolution in the Senate or was about to offer a resolution in the Senate, stating that that committee, the Labor Committee, should make

an investigation into this field.

The Senate Permanent Subcommittee had been making an investigation, a preliminary investigation into some phases of labor racketeering or certain matters that would get into labor racketeering.

During early January or late December, a question had been raised by Mr. Sam Bassett, the attorney for Mr. Brewster and for the Western Conference of Teamsters, that our Committee did not have jurisdiction, and that therefore Mr. Brewster and Mr. LaPoma would not cooperate with the Committee.

So I had informed the Chairman to this effect, that this question had been raised by Mr. Bassett, and that we should expect that when Mr. Brewster appeared before the Committee and Mr. LaPoma appeared before the Committee that they would raise this question once again.

I would like to add, if I might, that when Mr. Senator Ives introduced his resolution in the United States Senate he never contended that our committee did not have jurisdiction.

MR. PICKENS: Your Honor, I think that the record is the best evidence of what Senator Ives contended at that time.

THE COURT: I think that is probably true.

133 MR. HITZ: I think that is true, yes.

BY MR. HITZ:

Q. Now would you tell me in what way Mr. Bassett--by the way, was he attorney at this time for Mr. Brewster? A. He was the attorney for the Western Conference of Teamsters.

Q. And did he finally represent Mr. Brewster when he appeared before the Investigations Subcommittee? A. Yes, he did.

Q. In what fashion did Mr. Bassett raise this question of the authority of your then subcommittee? A. He raised it to me in conversations that I had with him, and I believe, although I am not certain, that there is also a letter or a telegram from him indicating that they were raising this question as well as the question of the Fourth Amendment, namely, illegal search and seizure, that the subpoena we had served on

Mr. LaPoma and Mr. Bassett in December of 1956 was too broad, and that it was illegal search and seizure, and that therefore they were going to raise these two questions of the Fourth Amendment and the second question that this Committee did not have jurisdiction.

Q. I see. Was that December subpoena to Mr. Brewster, the one under which he appeared in January of 1957 here in Washington?

134 A. That is correct.

Q. Is that the only subpoena that was issued for Mr. Brewster to appear before that Subcommittee? A. There were two subpoenas served on him at that time.

Q. Was the other a subpoena duces tecum as well? A. That is right.

Q. And did one call for the production of documents of the Western Conference, and the other documents of the Joint Council described in each subpoena? A. Joint Council 28, in Seattle. That is correct.

Q. About when did you have that talk with Mr. Bassett in which he raised the jurisdictional question?

I think you have stated it was in January. Can you particularize on that? A. Without looking at my records I could not. It is my recollection that there were two or three conferences to that effect, and that they took place in December and also in January. I would have to look at my own records to determine the exact date.

Q. Now this meeting whose minutes I have read to you in part was on January 14, '57, a meeting of the Government Operations Committee, was one or more of the conferences you had with Mr. Brewster's lawyer, which you have recounted here, before January 14, '57? A. Yes.

135 Q. Did you discuss with the Chairman of the Subcommittee, Senator McClellan, the substance of Mr. Bassett's contention that this subcommittee had no jurisdiction? A. I did. Could I add, also, one other matter on this which made them apparent and obvious during this period of time, we had also subpoenaed the records of the Western Conference of Teamsters and Joint Council 28 at the Seattle First National Bank, and Mr. Bassett had contended at that time--and the case went

to the Courts--that the Committee did not have jurisdiction over this matter, and that therefore the bank should not turn over the records to the Committee because their jurisdiction did not stretch far enough to get these bank records. So I don't think there was ever any question that this contention was being raised.

Q. I see. A. And the Chairman during this period of time was kept advised that this would be the main contention of the prospective witnesses.

Q. Are you, Mr. Kennedy, aware of any other contention made by anyone except Mr. Bassett and those whom he was representing in the Teamsters Union contesting the jurisdiction of the Subcommittee together to go into the matter? A. No, I am not.

Q. Prior to the subpoenaing of Mr. Brewster, had the subcommittee made some investigation of the activities of the Teamsters Union
136 and its officers? A. Yes.

Q. Would you tell us whether or not prior to that the Subcommittee had conducted, over a period of time, an investigation into the procurement of military supplies? A. We had.

Q. And what particular field of the procurement of military supplies? A. Clothing; uniforms--

MR. PICKENS: Your Honor, I don't think that that question is relevant. We are not talking about procurement.

THE COURT: Are you making an objection to this testimony?

MR. PICKENS: Yes, I am.

THE COURT: I will hear the Government on this point.

MR. HITZ: Your Honor, the Chairman stated, as we have already read to you, the background of this particular investigation into labor unions' racketeering. I think it would be relevant and also material to the case to have testimony on that subject, but brief testimony.

THE COURT: I think it might be material. I will permit it.

MR. HITZ: May he answer?

THE COURT: Yes.

MR. HITZ: Thank you.

137 BY MR. HITZ:

Q. Do you have in mind the question, sir? A. No, I don't.

Q. Did the Subcommittee--

MR. HITZ: What is the question?

THE COURT: Read the question.

THE REPORTER (reading):

"Question. And what particular field of the procurement of military supplies? Answer. Clothing; uniforms--."

BY MR. HITZ:

Q. Did you fully answer that question, sir? A. Clothing and uniforms. Particularly uniforms.

Q. When was that conducted by the Subcommittee? A. Starting in January of 1955. Going on through 1956.

Q. Did the Subcommittee receive information in those hearings with respect to labor racketeering? A. In 1956 we did, starting in about February of 1956, after we had been in this investigation about fourteen months we received some information.

Q. Did it receive information concerning labor racketeering by the Teamsters Union?

THE COURT: Let me ask you a question, Mr. Hitz. Just pardon the interruption.

138 MR. HITZ: Yes, sir.

THE COURT: What do you mean by use of the term "labor racketeering"?

MR. HITZ: I will ask Mr. Kennedy. It has been used in some of these documents, so I will ask him.

THE COURT: I would like to get that in the record.

BY MR. HITZ:

Q. Mr. Kennedy, are you familiar with the Committee's use and your use of the term "labor racketeering"? A. Yes.

Q. Would you tell us what is meant by that, in that connection, that is, by the Committee and by yourself?

MR. PICKENS: Your Honor, I would like to know which committee.

MR. HITZ: Oh, I am sorry. I am speaking, unless otherwise describing it, the Committee on Government Operations and its Subcommittee on Investigations.

THE WITNESS: Well, I would think, it might oversimplify it, but racketeering by certain union officials. Now this can get into a number of different categories but that is it in a simplified sense.

BY MR. HITZ:

Q. Could you elaborate on the use of the word "racketeering" in that connection? A. Well, I think the racketeering gets down to collu-
139 sion between management and labor, to the detriment of members of labor unions;

The second category would be the mis-use of union funds;

The third category might be the mis-use of welfare and pension funds;

The fourth would be extortion;

The fifth, the use of terrorism;

The sixth, the depriving of members of labor unions of their democratic rights by fear and terrorism;

Another category would be outsiders coming in and taking over a labor union to the detriment of the members of that union.

I would think that in the six or seven broad categories are what I would consider racketeering in labor unions.

Q. Would it generally comprise both illegal as well as allegedly improper activities? A. That is correct.

Q. I think I asked you a question as to whether or not the information of such activity came to the Subcommittee with respect to the Teamsters Union, in the course of the military supplies investigation? A. Well, that is the difficult matter to answer. We had received, back in February and March of 1956, certain information regarding racke-
140 teering and certain labor unions up in New York City.

The racketeering centered around Local 102 of the ILGWU. The head of that was a man by the name of Sam Berger. He had some close connections with certain officials in the Teamsters Union. But

beyond that, at least as of the early part of 1956, we had no specific information regarding racketeering in the Teamsters Union. Just as far as the connection between Mr. Berger and certain officials of the Teamsters Union.

Q. Mr. Kennedy, at the time of the hearings that went into labor racketeering and commencing on January 16, 1957, was the Committee, the Subcommittee, to your knowledge, aware of the existing statutes on the subject of labor management relations? A. Yes, we were. Yes, we were. We were.

Q. And prior to these hearings did the Subcommittee conduct an investigation with respect to alleged racketeering by the Teamsters Union? I am speaking now in preparation for these hearings? A. Yes. After we received this information back in February of 1956, we had witnesses down, who appeared in Executive Session before the Subcommittee. During the summer of 1956 we began to realize, based on further information that came to our attention, that there was a very
141 close tie-up between some of these individuals and certain of the Teamster Union officials who had strong and powerful positions.

We understood the fact that labor unions had tax-exempt status as well as the fact that they had to file these reports with the Government. We decided at that time to make a more complete and thorough investigation that would go beyond New York City.

We intensified our investigation in New York City and spread out into the Midwest and into the Far West in the Fall of 1956.

Q. To your knowledge was the Subcommittee prior to the calling of Mr. Brewster in January of 1957 acquainted with the requirements of the financial and other reports that were required to be made by the Labor Management Relations Act of 1947 by labor organizations to the Department of Labor? A. Yes, we were.

Q. To your knowledge was the Subcommittee aware that there must be divulged certain information in those reports concerning receipts and disbursements of union funds? A. Yes, we were.

Q. As a general matter? A. Yes.

142 Q. At that time--or at the time that Mr. Brewster was subpoenaed to your knowledge did the Subcommittee have information with respect to whether or not there had been accurate and truthful reports made by any organization that Mr. Brewster was an officer of-- A. We had information indicating that the reports that had been filed with the Department of Labor were not accurate.

Q. Had the Subcommittee obtained copies of any of the reports that had been filed with the Labor Department which had been signed by Frank Brewster as an officer of any one of the labor organizations comprised in the Teamsters Union? A. We had.

Q. Had you received several of such reports signed by Mr. Brewster? A. We had.

Q. Did he and others purporting to be officials of those unions or union organizations sign? A. They did.

Q. At least their names appeared? A. Yes, sir.

Q. Mr. Kennedy, did you determine what the Teamsters Union consisted of? I am using the word "Teamsters Union" in a broad sense. How it was made up and who was the governing body and who were the base organizations under the Teamsters Union or in the Teamsters

143 Union? A. Yes.

Q. Would you tell us what the organization was of the Teamsters Union? A. Well, there was the International bodys, which has as its President Mr. Dave Beck. There are a number of Vice-Presidents; the Brotherhood of Teamsters is split up into different conferences, the Eastern, Central, Southern and Western Conference; and they have Presidents of each one of those conferences.

Q. And below the conference level? A. And then there are Joint Councils.

Q. How do they fit into the conference set-up? A. Well, the number of--the unit below them is or would be local unions, and the various of the local unions are joined together in Joint Council, and there are a number of these. These are then combined to be the Western Conference or the Eastern Conference of Teamsters.

I understand that the Western Conference of Teamsters was that one that was set up first, to be the original conference. It comprises the eleven western states.

Q. And below the Council level? A. It is the local union. Then the membership.

Q. Now did the committee to your information have information as to Mr. Brewster's connection with Joint Council Number 28?

144 A. Yes.

Q. And his connection was what? A. He was President of Joint Council 28.

Q. And of the Western Conference he held what position? A. He is President of the Western Conference.

Q. Mr. Kennedy, to your knowledge, what was the purpose which the subcommittee had in mind to gain by subpoenaing the records of Mr. Brewster as Western Conference of Teamsters' President and as Joint Council Number 28 Chairman? A. We had information indicating that there had been a mis-use or misappropriation of union funds in the Western Conference of Teamsters and Joint Council 28; that the primary mis-use came from Mr. Dave Beck; that the records that were filed with the Department of Labor would not indicate or show how this money had been used or mis-used, and we made further inquiry and found that the Secretary of Labor, Mr. Mitchell, felt that they did not--even though they might learn that these reports were false--that they could not go behind them and make any further determination..

We also found that out from Mr. Leedom who is head of the NLRB, that there was nothing they could do even if they were false.

145 We felt that based on this that we should find out first whether the information we had indicating that there had been a mis-use of union funds, that therefore the financial statements filed with the Labor Department were false, what the Government should then do to protect itself from false statements if they were being filed with them, and that (if) there was nothing they could do, that further legislation should be offered to increase the efficiency or economy of the Government.

Q. Mr. Kennedy, do you have a copy of the Committee Report Number 60, that is, of the full Government Operations Committee? A. Yes, I do.

Q. There is set out on page 1 of that report, Mr. Kennedy, a summary of a subpoena to Frank Brewster, Western Conference of Teamsters, Seattle, Washington, to appear on December 27, 1956, before the Senate Permanent Subcommittee on Investigations in Washington, D. C., to testify and to produce records--produce certain papers, and likewise a summary of a subpoena to Frank Brewster, Joint Council No. 28, International Brotherhood of Teamsters, Chauffeurs and Warehouse Helpers, Seattle, Washington, to appear at the same place on the same day, to testify and to produce certain papers of the Council.

146 Are the subpoenas referred to there the ones that were issued by the Committee, by the Subcommittee, or after which there was the conference that you have related with Mr. Bassett, Mr. Brewster's attorney, concerning the Subcommittee jurisdiction? A. Yes, sir.

Q. Now would you be good enough to turn, Mr. Kennedy, to page seven of this same document, which for the record is an attachment of Government's number 5, the citation to the United States Attorney, and state whether or not, Mr. Kennedy, the subpoena number 3632 which is set out on page 7, is the subpoena to which we have made reference issued to Mr. Brewster of the Western Conference of Teamsters? A. Well, Mr. Hitz, I do not have the subpoena here with me to compare the two. I presume that they are one and the same.

Q. I see. All right, sir.

Mr. Kennedy, were you present and were you the interrogator for the Subcommittee when Mr. Boyd Leedom appeared on January 16 in front of the Subcommittee? A. Yes, I was.

Q. Was that in Executive Session? A. Yes, it was.

Q. Do you have a copy of the full text of the hearings for January 16 through 19 which has become Government number 6 at

147 this trial? A. I do.

Q. Mr. Leedom's testimony appears there on page 3, is that

correct, sir? A. Yes, it does.

Q. Immediately after the opening statement of the Chairman? A. Yes.

Q. And after that did Mr. Mitchell, the Secretary of Labor, testify? A. Yes, he did.

Q. Likewise did Executive Session hear that? A. Yes.

Q. And were you there, sir? A. I was.

Q. And then following that did the representative of the Bureau of Internal Revenue-- A. Mr. Winkle--

Q. --testify? A. He did.

Q. Mr. Winkle? A. That is correct.

Q. And his testimony is on Page 29; is that correct, sir? A. I
148 believe it is.

Q. And was that likewise Executive? A. It was.

Q. And you were there then?

Now, Mr. Brewster's testimony appears in this particular print on Page 36, does it not, sir? A. Yes, it does.

Q. Now did he appear there in Executive or open session? A. I believe he appeared in Executive Session on that date. Executive Session.

Q. Yes, sir. Now Mr. Brewster appeared in the afternoon of January 16; is that correct, sir? A. Yes, he did.

Q. Did that take place in Washington? A. It did.

Q. Was that in the District of Columbia, sir? A. It is.

* * * * * *

149 THE WITNESS: I have the full hearings correctly. I just don't have document number 60.

BY MR. HITZ:

Q. We can read then from page 36, Mr. Kennedy. A. I can return this, then (handing document to the Court).

MR. PICKENS: This is Government's number 6?

THE COURT: Yes.

BY MR. HITZ:

Q. Turn to the page 36 and read the commencement of the

150 afternoon session. A. Very well.

"The Chairman. The subcommittee will be in order.

"Members of the committee, we held executive session hearings this morning, at which time we heard a number of witnesses from the executive branch of the Government, representatives of the National Labor Relations Board, and of the Treasury Department.

"Their testimony was pertinent to this investigation. I heard it in executive session primarily because the Chair had announced this would be an executive session, because, as you know, too, the public hearings must be by a majority vote of the committee. I had no opportunity to do that. But there is nothing in their testimony, so far as I can observe, that needs to be kept secret in any sense. Therefore, unless there is objection on the part of the committee, the Chair will make that record public as soon as it is transcribed.

"I will have, I may say to the members, the staff check with the departments interested, who testified, and ascertain from them if there is anything in there they think would be adverse if made public. I do not think there is."

151 Shall I proceed?

Q. Yes, please. A. (Continuing):

"So if they have no objection, the Chair will proceed, without objection, to make the testimony public as soon as it is transcribed.

"Senator McCarthy. Mr. Chairman, in view of the fact that we have a quorum here, would it not be a good idea to entertain a motion to have open hearings tomorrow morning, as you planned on having them?

"The Chairman. If we find we need to. If you wish to, you may make the motion, that the Chair may call open hearings in this matter at a time he desires.

"Senator McCarthy. I then move that the Chair be given

authority to hold open hearings at such and place as he desires.

"The Chairman. On the subject matter of the inquiry as stated by the Chair this morning in the opening of the executive hearings?

"Mr. Senator McCarthy. Yes, I want to include that in my motion.

"The Chairman. Is there objection to the motion?

"The Chair hears none.

"The motion is adopted.

"All right, gentlemen.

"Mr. Brewster, will you be sworn, please?

152 "You do solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

"Mr. Brewster: I do.

"The Chairman. Mr. Brewster, will you state your name, your place of residence, and your business or occupation, and particularly with respect to any relation or position you may have with organized labor?

"(The witness conferred with his counsel.)

"Mr. Brewster: I have a statement prepared--

"Mr. Chairman. Mr. Brewster, I am trying to make a clean record here. If you will answer the questions, then we will get to your point.

"Mr. Brewster. My name is Frank W. Brewster. My address is 553 John Street, Seattle, Washington. I am Chairman of the Western Conference of Teamsters. What other question was it that you asked me?

"The Chairman. Any position you have with labor.

"Mr. Brewster. I am president of the Joint Council of Teamsters, No. 28, the State of Washington, and I am president of the Building Association, Joint Council Building Association, of Seattle, Washington. And I am president of the Teamsters

Local 174, the local union."

153 Q. Would you be good enough to let me interrupt to ask you whether on the inside front page of this exhibit there is listed there a correct listing of the members of the Committee on Government Operations? A. Yes.

MR. PICKENS: We would stipulate--

THE COURT: You will stipulate that the members of the Committee on Government Operations which appears on the back of the first page--

MR. PICKENS: Also the permanence of the committee on investigations.

THE COURT: Very well.

MR. HITZ: Thank you.

BY MR. HITZ:

Q. Now would you be good enough to read, Mr. Kennedy?

A. (reading):

"The Chairman. Mr. Brewster, under the rules of this committee, a witness appearing before it is entitled to have counsel of his own choosing present, who can advise him with respect to his legal rights. Have you elected to have counsel present?

"Mr. Brewster. Yes, sir; I have.

"(At this point, Senator Symington entered the hearing room.)

154 "The Chairman. Counsel, please identify yourself for the record.

"Mr. Bassett. My name is Samuel B. Bassett, of Seattle, Washington. My office address is New World Building, Seattle 4, Washington.

"Senator McCarthy. Mr. Chairman, that raises a point with which we will be faced.

"In the case of a Government employee appearing, we have a rule that the lawyer cannot be paid by the Government, because the interests are adverse or they would not be called, normally.

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In this case, the interest of the workingman and the witness will, in most cases, be adverse. I just wonder whether or not the committee should take a position on whether or not a lawyer who is on the payroll of the workingman, whose rights are being protected here, should be the attorney for an individual accused of wrongdoing.

"I am not speaking of Mr. Brewster, as I do not know what the testimony is in the case at all. But we will be faced with that problem.

"My offhand thought, Mr. Chairman, is that the laboring man, whose rights allegedly have been encroached upon, whose money allegedly has been misappropriated, should not be paying a lawyer to defend the claimed wrongdoing. It seems contradictory and improper. You would not allow it in a court of law?"

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"The Chairman. For this afternoon, the Chair is going to proceed. If we do run into a long or serious problem, we can deal with it.

"Mr. Senator McCarthy. Could I ask counsel a question or two, Mr. Chairman?

"Are you on the payroll of the teamsters union?

"Mr. Bassett. The teamsters union pays me for work that I perform for them, in labor work, but I am not on the payroll of the teamsters union. They pay me from time to time for work that I perform, and they also pay me, in some instances, a retainer.

"Senator McCarthy. Who is paying your expenses down here and back, other than what the committee pays, of course?

"Mr. Bassett. I expect to be reimbursed by Mr. Brewster or the union. I have not given it any thought.

"Senator McCarthy. How about your per diem, your salary?

"Mr. Bassett. I haven't even discussed that, sir.

"Senator McCarthy. In other words, as of the present time, you do not know whether you will be paid by the workingman or by Mr. Brewster?

158 "Mr. Bassett. Frankly, I don't know who is going to pay me. I have not discussed it. I haven't made any arrangements.

"Senator McCarthy. That is all, Mr. Chairman.

"The Chairman. Mr. Brewster, you appear here today in response to a subpoena served on you by the committee?

"Mr. Brewster. Yes, sir.

"The Chairman. I believe two subpoenas were served upon you; were they not?

"Mr. Brewster. That is right.

"The Chairman. Would you present these subpoenas to the witness, these copies, and ask him to identify them as copies of the subpoenas served upon him?

"(Documents handed to witness.)

"(The witness conferred with his counsel.)

"Mr. Brewster. Yes, sir; they are the same.

"The Chairman. They are the same? Then they may be printed in the record at this point.

"(The documents referred to follows:)

THE COURT: Let me ask you, do you want Mr. Kennedy to read all of these subpoenas?

MR. HITZ: I am not going to ask him to. I will ask him to omit these two subpoenas.

159 MR. PICKENS: Your Honor, I will compare those two this evening and I will be glad to stipulate if they have been correctly printed that they are true copies.

MR. HITZ: All right, sir.

THE COURT: Very well.

BY MR. HITZ:

Q Now will you omit the reading of the subpoenas, Mr. Kennedy--

THE COURT: You might refer to them.

MR. HITZ: I am sorry.

THE COURT: Maybe it would be well for Mr. Kennedy to refer to the subpoenas and just give the title of them and to whom they are directed.

BY MR. HITZ:

Q. Then in the record does there appear a subpoena 3632, directed to Frank Brewster as Western Teamsters Conference, Seattle, Washington? A. That is correct. President of that organization.

Q. And then to Subpoena 3633, addressed to Frank Brewster, Joint Council 28, and so forth? A. That is right.

Q. Calling for certain described material; is that right, sir? A. Yes, sir.

Q. Then we will omit that, and would you go on with the reading
160 on page 39? A. Yes.

"I made service of the within subpoena by personal service the within-named Frank Brewster, at 551 John Street, Seattle, Washington, at 9:00 o'clock a. m., on the 15th day of December 1956. R. F. K. and C. B."

"Senator McCarthy. Could I make a suggestion, Mr. Chairman?

"The Chairman. Let me proceed with these formalities, first.

"Senator McCarthy. This is to Mr. Bassett.

"The Chairman. All right.

"Senator McCarthy. Might I suggest, Mr. Bassett, if the Chairman approves, that you find out, before you appear here again, who is paying your salary?

"Senator Jackson. It is a fee, not a salary.

"Senator McCarthy. In other words, Mr. Bassett, who is paying you for appearing here and defending Mr. Brewster or anyone else. As a lawyer, you understand that does raise a very important question.

"Mr. Bassett: Very well.

"Senator McCarthy. Could I ask Mr. Brewster whether he

personally plans on paying Mr. Bassett or whether that will come out of the union?

161 "Mr. Brewster.. If it is necessary for me to pay him, I certainly will, because I want him as my counsel.

"Senator McCarthy. What do you mean by "necessary?"

"Mr. Brewster. If you say that I should, I will.

"Senator McCarthy. That is all.

"The Chairman. At the opening of the executive session this morning, the Chair made a statement in the record of the purpose of this investigation, reviewing some of the information, in general terms, that we have, and some of the problems that confront Government in its operations and in its administration; also some questions, possibly, of legislation that may be indicated. I asked the counsel a while ago if a copy of the statement that the Chair made had been supplied to the witness and his counsel..

"Have you received a copy of it and read it and are you familiar with it?

"Mr. Brewster. I have.

"The Chairman. Then you are acquainted with the purpose of the hearing?

"Mr. Brewster. As near as I could understand the statement.

"The Chairman. If it is ambiguous, that is the Chair's
162 fault. I take responsibility for it. If it is not, and you do not understand it, I could not take the responsibility for that.

"May I inquire, then, of the witness, since you said you read the statement and understood it, I believe, as much as you could, on this point: Is there any question in your mind about the statement, or is there anything in there that you do not understand?

"Mr. Brewster. No questions.

"The Chairman. Thank you very much.

"Subsequent to your having been served the subpoenas, I believe there was an exchange of telegrams between you and the

chairman of the committee; is that correct?

"Mr. Brewster. Correct.

"The Chairman. I hand you now a telegram dated December 19, 1956, addressed to the chairman of the committee. Will you identify that as the telegram you sent?

"(Document handed to witness.)

"(The telegram referred to follows:)

"Honorable John L. McClellan, Chairman, Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, Senate Office Building, Washington, D. C.:

163 "Summons Nos. 3632 and 3633 served on me December 15, 1956, require that I appear before your committee in Washington, D. C., on December 27, 1956, and at that time produce the books and records of the Western Conference of Teamsters and of Joint Council No. 28 of the International Brotherhood of Teamsters for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memorandums and minutes of meeting. Obviously, these records covering a period of five years would necessarily have to be shipped by truck or by rail. Furthermore, my counsel and I would naturally like to spend Christmas at home and, although counsel and I are willing to leave here on the afternoon of Christmas Day, we are not able to secure transportation on any flight leaving here for Washington, D. C., either on December 25 or December 26. We are advised that other officials of the teamsters union residing in Los Angeles, San Francisco, and Seattle have been summoned to appear before your committee on January 15, 1957. Under these circumstances, we request that our appearance be deferred until a January date convenient to your committee. We have not been advised concerning the particular matter in which your committee is interested and the

164 summons on its face asks for a general search of our records.

papers, and documents, and not confined to matters which might be relevant to the inquiry. For these reasons, we reserve the right when we appear before your committee to invoke the fourth amendment to the Constitution prohibiting unreasonable searches and seizures."

* * * * * * *

172 "The witness conferred with his counsel.

"Mr. Brewster. I haven't a copy of this telegram, but this looks like it. I think it is the same telegram.

"The Chairman. The Chair can assure you that that is what he received.

"Mr. Brewster. Yes, sir.

"The Chairman. Thank you.

"I hand you a copy of the telegram which I sent to you, and also to Senator Jackson, a member of the committee. Will you identify this copy and state whether you received it?

"(Document handed to witness.)

"(The witness conferred with his counsel.)

"Mr. Brewster. That is correct, I received that.

"The Chairman. That copy of the telegram may be printed in the record at this point.

"(The telegram referred to follows:)

"December 21, 1956.

"Senator Henry M. Jackson, 411 United States Courthouse Building, Seattle, Washington;

"Frank W. Brewster, 1901 36th West or 583 John Street, Seattle, Washington;

173 "John Lindsay, Jr., 19711 27th Northwest, Seattle, Washington:

"Your appearance before this subcommittee postponed to January 15, 1957, at 9:30 a. m.

"John L. McClellan, Chairman, Senate Permanent Subcommittee on Investigations.

"The Chairman. Mr. Brewster, one of these subpenas was addressed to you, Frank Brewster, Joint Council 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Seattle, Washington, and the subpena directed your appearance at ten o'clock on the date of December 27, 1956, which date was later changed by telegram for yesterday at 9:30. The subpena direct you to appear and to then and there testify what you may know relative to the subject matter under consideration by said committee and produce the books and records of Joint Council 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, canceled checks, check stubs, correspondence files, memorandums and minutes of meetings.

"Have you brought, Mr. Brewster, the material and documents directed by the subpena? 174

"Mr. Brewster. I would like to read a statement.

"The Chairman. Just a moment. Can you answer whether you have brought them or not?

"Mr. Brewster. No.

"The Chairman. Just a moment.

"The other subpena was addressed to you, Frank Brewster, Western Conference of Teamsters, Seattle, Washington. It directed you to appear on the date of December 27, 1956, and thereafter that was changed by telegram to the date of yesterday. The subpena directs that you then and there testify what you may know relative to the subject matters under consideration by said committee, and produce the books and records of the Western Conference of Teamsters for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence file, memorandums and

minutes of meetings.

"Did you comply with that subpena and have you brought the records the subpena called for?

"Mr. Brewster. I have not.

"The Chairman. Now you say, Mr. Brewster, you have a
175 statement?

"Mr. Brewster. Yes, sir.

"The Chairman. Have you submitted a copy of your statement to the committee, under the rule?

"Mr. Brewster. Yes, sir; I have.

"The Chairman. I have not seen the statement. Just one moment. May I see it?

"Senator Symington. Mr. Chairman, would you read it to the rest of the committee?

"The Chairman. There is a copy there.

"Mr. Kennedy. There are only two copies.

"Mr. Bassett. If I may, Mr. Chairman, I have additional copies.

"The Chairman. Pass them out and the committee members will read it. We will then determine whether it will go into the record.

"Senator McCarthy. Was this filed with the committee?

"Mr. Kennedy. Yes, it was.

"The Chairman. Mr. Brewster, the Chair will rule that you may read into the record, if you desire, the statement which you have submitted.

"Mr. Brewster. The first one will be Joint Council 28.

"On Saturday, December 15, 1956, there was served on
176 me a subpena addressed to 'Frank Brewster, Joint Council 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Seattle, Washington.'

"I am the Frank Brewster named in said subpena. My address is 553 John Street, Seattle, Washington. I am president

of the Joint Council 28, which is a voluntary, unincorporated association organized as a labor union, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America (affiliated with the A. F. of L.-CIO). Joint Council 28 is composed of 47 local unions, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, located in the State of Washington.

"The above-mentioned subpena commanded me to produce before you the books and records of the Joint Council 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers for the period January 1, 1951 to December 31, 1955, including cash receipts, disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda, and minutes of meetings.

"I desire to state to you my reason for not producing any financial records or other papers or documents in response to this subpena. My reasons are: First, I am advised by counsel that in attempting to investigate Joint Council No. 28, and to examine the financial records, correspondence, minutes of meetings, and other documents described in the said subpena, the subcommittee is proceeding in excess of its lawful authority; second, I am further advised by counsel that the language in said subpena is so broad, sweeping, and lacking in particularity as to constitute an unreasonable search and seizure under the fourth amendment of the Constitution of the United States.

"The Chairman. May I ask you, Mr. Brewster, this question: You say that the language of said subpena is so broad, sweeping, and lacking in particularity as to constitute an unreasonable search. May I ask you if you know what a cash receipt is?

"Mr. Brewster. Yes, I know what a cash receipt is.

"The Chairman. You do?

"Mr. Brewster. Yes.

"The Chairman. Bills and invoices?

"Mr. Brewster. Yes.

"The Chairman. Bank statements?

"Mr. Brewster. Yes.

178 "The Chairman. Check stubs?

"Mr. Brewster. Yes.

"The Chairman. Correspondence files?

"Mr. Brewster. Yes.

"The Chairman. Memoranda and minutes of meetings?

"Mr. Brewster. Yes.

"The Chairman. Then there is no misunderstanding on the part of you as the witness as to the records that the committee subpenaed?

"Mr. Brewster. No, there is no misunderstanding.

"The Chairman. No misunderstanding?

"Mr. Brewster. No.

"The Chairman. Then you have full knowledge, and the subpena did give you accurate information as to the records that the committee desired?

"(The witness conferred with his counsel.)

"Mr. Brewster. I don't know, or I wouldn't know, by a broad statement of these things that you asked for, of what you were investigating when you got them.

"The Chairman. You have been so advised now by the statement the Chair put in the record this morning. Whether you understood what we were investigating or not investigating, I wanted to make clear that there wasn't any confusion in your mind as to the records the committee subpenaed. You seem to be able

179 to identify them, and you say you know what they are. I want to make that clear for the record.

"Now, Mr. Brewster, the committee, in pursuit of its congressional duties, and with the power and authority invested in it, and the responsibilities with which it is charged under law and under the rules of the Senate, expects you to produce these records.

The Chair wants to be as considerate as he can be, but we want to determine if we can get these records. Therefore, I would like to inquire whether you are prepared to, at this time, answer such questions along these lines as the committee may desire to propound to you.

"(The witness conferred with his counsel.)

"The Chairman. You raise a question of constitutionality and a question of the committee exceeding its authority. I want you to state your position with reference to that before I proceed further.

"(The witness conferred with his counsel.)

"Mr. Brewster. I do not intend to answer any questions until the committee is lawfully and legally recognized, this committee, as to its authority.

"The Chairman. You are refusing, then, as of the moment to recognize the authority of the committee and its right to inquire into the subject matter and to receive from you the documents it has subpenaed?

"Mr. Brewster. That is right.

"Senator McCarthy. Mr. Chairman, I was going to say I have seen counsel and the witness conversing here, which, of course, they have a perfect right to do. I am not going to press the motion now, but, for the benefit of the members of the committee, I shall move at the conclusion of this day's session that the attorney for the laboring man not represent a union leader accused of misuse of the laboring man's funds.

"I am not accusing you of anything, you understand, but it has been charged that you have misused the laboring man's funds. I have no way of knowing whether that is true or not. I think it would be highly improper for a lawyer to represent you and be on the payroll of the laboring man. He certainly cannot serve those two masters at one time.

"I am not going to press the motion now, on this point.

"The Chairman. We will take that up in an executive session.

"Senator McCarthy. Mr. Bassett, do you not think this puts you in an unusual position, to be on the payroll of the laboring man, and, at the same time, defending the union leader who is accused of misusing the laboring man's funds? Do you feel you can represent both of them at the same time?

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"Mr. Bassett. Senator McCarthy, may I answer in this way: I am not aware that Mr. Brewster has been accused of misusing union funds. I don't think he has knowledge of any accusation of that kind. Should that develop, then I will decide for myself whether I will continue to represent the labor union or accept a retainer from Mr. Brewster in some criminal proceeding.

"Senator McCarthy. You say you will decide for yourself?

"Mr. Bassett. Yes.

"Senator McCarthy. I think you are making a mistake there. I think the committee will decide for you, most likely, whether you can be representing the working man and representing Mr. Brewster.

"Mr. Bassett. I think I said whether I would represent him in a criminal proceeding. As his lawyer I would decide that.

"Senator McCarthy. This is not a criminal proceeding.

"Mr. Bassett. I understand that.

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"Senator McCarthy. This is an investigation, as Senator McClellan's statement so clearly puts forth, among other things, to determine what additional legislation is required. So this is not a criminal proceeding.

"May I say, Mr. Chairman, in view of the fact this will be coming up constantly, that I think it would be highly improper for a lawyer who is on the payroll of the laboring man to represent the union leaders.

"The Chairman. That is a subject which we will bring up in a business meeting of the committee, and discuss and resolve.

The immediate thing I want to determine here is whether we are confronted with a problem which can only be resolved by authorized and established procedures, or if we can pursue it in the usual and ordinary course of the performance of our duties. If we cannot, then we will have to take up other issues on the question.

"But, under the circumstances, the Chair is thoroughly convinced, and I believe the members of this committee are, that this committee does have jurisdiction over the subject matter under inquiry, that it has a right to subpena a witness and require his presence. It also has a right to subpena the records that are
183 prescribed in the two subpenas the witness has received, and with the knowledge he has received.

"As of now, the Chair holds that the question of jurisdiction raised, and the alleged violation of the search-and-seizure provision, the fourth amendment of the Constitution of the United States, are not tenable; they are not well founded. But I want to be exceptionally fair and considerate.

"We have hearings scheduled for tomorrow. At that time we will be going into other similar matters. If there is no objection on the part of the committee, I will dismiss the witness until tomorrow morning at ten o'clock, and let him and his counsel have an opportunity to think this matter over. At that time they will come before the committee again and we will proceed to ask those questions which we expect him to respond to.

"If you then refuse, the committee will consider what action under those circumstances it should take.

"Senator Symington. Will that be in executive session or an open hearing?

"The Chairman. I expect to call open hearings for tomorrow.

"Mr. Bassett. Mr. Chairman, Mr. Brewster has read a
184 statement as to why he did not bring the records of Joint Council 28. He has filed a statement in which he has given his reasons

for not bringing the records subpenaed with reference to the Western Conference of Teamsters. May the record show that for the same reasons stated with the respect to Joint Council 28, the two reasons given, he has not brought the records of the Western Conference?

"The Chairman. Do you have another statement?

"Did you have two separate statements?

"Mr. Brewster. Yes, sir.

"The Chairman. You read one?

"Mr. Brewster. Yes, sir.

"The Chairman. The other one may be printed in the record following the one you read. The Chair meant to have that done. The Chair overlooked it. We keep this record straight, as far as it is possible to do so.

"(The statement referred to appears on p. 213).

"The Chairman. Mr. Brewster, you will now be excused until tomorrow morning at ten o'clock. You will appear then, and the Chair will instruct you to be prepared to answer the committee's questions.

"Senator McCarthy. Could I ask, Mr. Bassett, are you receiving an annual fee from the union?

185 "Mr. Bassett. I am paid a retainer, Senator McCarthy, by the Western Conference and also by Joint Council 28.

"Senator McCarthy. That is an annual retainer?

"Mr. Bassett. Yes, sir.

"Seantor McCarthy. Would you object to telling us how much that is?

"Mr. Bassett. Yes, sir; I would. I would rather not. It is not because it amounts to a great deal, but I do not think I am called upon here to--

"Senator McCarthy. I do not know whether the Chair will agree with me or not but I think we are entitled to know how much money you are getting from the laboring man when representing

Mr. Brewster. Therefore, I am going to insist upon it, unless the Chair vetoes the insistence.

"The Chairman. We can take that up tomorrow.

"Mr. Bassett. I am appearing here as counsel for the Western Conference of Teamsters and also Joint Council 28. Those are the organizations whose records were required to be produced by this subpena.

"After reflecting on your former question, I feel that what I am doing here is covered by that annual retainer. Mr. Brewster isn't here personally. He is here as an officer of these two organizations.

186 "The Chairman. He may also be personally. He was subpenaed personally.

"Mr. Bassett. He is here in person.

"The Chairman. I think he will be interrogated in person.

"All right, you may be excused until ten o'clock in the morning.

"Senator McCarthy. I think Mr. Brewster should be informed that he is appearing not merely in his official capacity as an officer of the union, but he is appearing as an individual able to give us evidence which we need.

"The Chairman. I had thought the Chair so indicated. I meant to.

"No other inference could come from my remarks, speaking in the presence of his counsel as I did.

"Mr. Brewster. This is off the record, gentlemen. I come in in the morning in an open hearing, and you know it will be impossible for me, no matter what we do, to get the records here.

"The Chairman. If you come in in the morning and in good faith tell me you will produce the records, that is another consideration. I am not saying what action the committee will take.

"Mr. Brewster. I wondered what the difference would be between this afternoon and tomorrow morning.

187 "The Chairman. I will give you every opportunity. I hope I am leaning over in your direction to be fair.

"Mr. Brewster. Thank you very much.

"The Chairman. Will the next witness be sworn, please?"

BY MR. HITZ:

Q. Mr. Kennedy, were there any conversations held between you and Mr. Brewster after the testimony that you have just read here concerning the production of papers as was indicated by Chairman McClellan? A. None that I can remember, or recollect.

Q. Was his testimony which was to have been resumed the following day postponed until some other time? A. Yes, it was.

Q. In what fashion was that done? A. It was postponed for several days, I believe, Mr. Hitz.

Q. How was it done? A. Well, I believe that Mr. Bassett was informed as the days progressed that we were not moving as quickly as we expected and that Mr. Brewster's testimony would be postponed. Now I don't know whether Mr. Brewster came every day and it was just postponed until we finished the first witness, or whether he was informed through his counsel. I am not sure how that was done. But I know it

188 was done. But I know it was postponed for several days because we did not progress as quickly as we had expected.

Q. Then his next appearance was on January 19th, is that correct, sir? A. I believe it was.

Q. Will you turn to Page 195 and see if that refreshes you on that? Note the date there, and then please turn to Page 211, and is that the testimony of Mr. Brewster on his next appearance before the committee after January 16? A. Yes, sir.

Q. So that his next appearance was on January 19; is that correct? A. I believe so.

Q. Between the time that he was excused on the 16th in the testimony you have just read, and his appearance before the committee again

on the 19th, were there any conversations had with him or with Mr. Brewster with reference to the documents that were under subpena? A. None that I can recollect.

Q. I ask you this direct question: In that interim period was he excused from producing under the subpena, by you? A. Well, he was excused from appearing the following morning and the witnesses were instructed to return until we could get to them, and he was instructed to
189 bring the documents in at the next hearing which we expected to have the following morning and to hear him, and finally it was postponed until the 19th. I don't know if that is responsive to your question.

Q. Perhaps my question wasn't clear.

Up until the time of his appearance again on the 19th had he been excused from producing the documents called for by the subpena, so far as you know? A. No, he had not. No, he had not.

Q. Now would you be good enough to turn to Page 195--and for the record we are still in Government Exhibit No. 5 (6)--and tell us who was present at the hearings on January 19, 1957, of the subcommittee? A. According to this record there were present Senator John L. McClellan, Senator Henry Jackson, Senator Symington, Senator Ervin, Senator Joseph McCarthy, Senator Mundt, and Senator Revercomb.

Q. Now that took place at what time of day? A. It met at 10:20, February 16, in Room 357.

Q. Was that in the District of Columbia? A. No, no, it met on January 19. On January 19 at 10:20 a.m., Saturday, January 19.

Q. Was that in the District of Columbia? A. Yes, it was.

Q. Now will you turn to Page 211, please, Mr. Kennedy, and read
190 the testimony of Frank Brewster, commencing five lines above the dark print, where the Chairman says "Yes, I invited him to stay"? A. Yes. (Reading):

"Mr. Kennedy. Frank W. Brewster.

"The Chairman. Mr. Brewster, come forward, please.

"You do solemnly swear that the evidence you shall give before this Senate investigating subcommittee shall be the truth,

the whole truth, and nothing but the truth, so help you God?

"Mr. Brewster. I do."

BY MR. HITZ:

Q. Let me interrupt just a moment, please, sir.

I wonder if you would turn back to Page 195, Mr. Kennedy?

A. Yes, sir.

Q. That is the commencement of the hearings for January 19th.

A. Yes.

Q. The Chairman makes a statement which is approximately a page of print, and I wonder if you can tell us whether or not Mr. Brewster was present when the Chairman made that statement? A. I do not know. My recollection is that he was but I couldn't testify positively to that.

191 Q. I wonder if you could refresh yourself by looking at the testimony of Mr. Linsay on Page 197, and perhaps you will be able then to tell us whether Mr. Brewster was present when Mr. Lindsay testified? Does that help? I don't mean to read it all, but does that refresh you either way as to whether Mr. Brewster was present at the beginning of that session? A. Well, I believe he was present during that morning because of the reason, because of the fact that we had expected to call him that morning, and we wouldn't know whether he would be called at ten o'clock or later in the morning. I would expect that he was there.

Q. What is your best recollection? That he was there or was not there? A. My best recollection is that he was there.

Q. Will you read what the Chairman had to say on Page 195, beginning with "The subcommittee will be in order? A. On 195?

Q. Yes, sir. A. "The subcommittee will be in order.

"(Present at the convening of the hearing were Senators McClellan, Jackson, Symington, McCarthy, Mundt and Revercomb.)

"The Chairman. The Chair wishes to announce as we resume public hearings that in the interim since yesterday at noon

192 when we recessed, the committee has heard a number of witnesses in executive session, witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry and

testimony that indicates conditions prevail that are of interest to the Congress in its investigation of Government operations with respect to its efficiency and economy.

"Some of those witnesses may have testified reluctantly under some apprehension as to what might happen to them if their testimony should be revealed. The Chair took occasion during that executive session to instruct those witnesses that they remained under the cognizance of the committee, under their present subpena, and they are likely to be called to testify in public.

* * * * * *

193 "The first thing the Chair wishes to do is to insert in the record at this point a letter received this morning from Mr. Kenneth C. McGuiness, General Counsel of the National Labor Relations Board, in response to a letter written by the committee and to the Secretary of Labor on January 8, 1957, requesting certain information regarding a number of labor organizations including the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Joint Council 42, Los Angeles, California, and also the Western Conference of Teamsters, Seattle, Washington.

"The letter will be printed in the record at this point and the documents submitted along with the record, photostatic copies of official documents now on file with the National Labor Relations Board and the Department of Labor--all the documents submitted with the letter will be made Exhibit No. 22 for reference.

"(The documents referred to were marked Exhibit No. 22 for reference and will be found in the appendix on page 292.)

194 "The Chairman. The letter, among other things, states:

"Your letter of January 8, 1957, addressed to Boyd Leedom, Chairman, National Labor Relations Board, requested certain documents and information pertaining to compliance status of named union organizations. Of those organizations

named, we find that the following have no compliance documents on file with us.

"That includes the two unions and the two organizations I have mentioned and others that are listed in the letter.

"(The letter referred to follows:)

"Hon. John L. McClellan, Chairman, Senate Permanent Subcommittee on Investigations, United States Senate, Washington, D. C.

"Dear Senator McClellan:

"Your letter of January 8, 1957, addressed to Boyd Leedom, Chairman, National Labor Relations Board, requested certain documents and information pertaining to the compliance status of named union organizations.

"Of those organizations named we find that the following have no compliance documents on file with us:

195 "International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Joint Council No. 42, Los Angeles, California;

"Western Conference of Teamsters, Seattle, Washington;

"Joint Teamsters Building Association, Portland, Oregon;

"Joint Teamsters Building Association, Seattle, Washington;

"Joint Council No. 28 Promotional League, Seattle, Washington;

"National Trade Division of Laundry, Linen, and Dry Cleaning Drivers, Seattle, Washington;

"Joint Council No. 28 Legal Fund, Seattle, Washington;

"Joint Council No. 28, Legislative Funds, Seattle, Washington;

"Joint Council No. 28 Donation Funds, Seattle, Washington;

"Joint Council No. 43 Public Relations Division, Los Angeles, California;

"Western Line Drivers Association, Los Angeles, California;

"For the following organizations we attach hereto the documents requested, viz., NLRB forms 1080 and 1085 which
196 were current as of December 31, 1955:

"International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Washington, D. C.;

"Teamsters Joint Council No. 28, Seattle, Washington;

"Teamsters Joint Council No. 37, Portland, Oregon;

"Local 174, Teamsters, Seattle, Washington;

"Local 472, Inside Brewery Workers, Warehousemen and Helpers, Seattle, Washington;

"International Union, Allied Industrial Workers of America, AFL-CIO, formerly United Automobile Workers, AFL;

"Local 223, Teamsters, Portland, Oregon;

"Local 321, Teamsters, Bend, Oregon.

"(You requested Local 324, General Teamsters, Salem, Albany, Corvallis, Lebanon, Newport, McMinnville and vicinity, Oregon. We have wired requesting the material on Local 324 and will deliver it to you as soon as it is received.)

"Local 618, Automotive, Petroleum and Allied Industries Employees Union, Teamsters.

"(You ask for National Automotive, Petroleum and Allied Trades Division, St. Louis, Missouri You gave no local number. We assume that we are correct in sending the attached, having found
197 no other organization with a similar name.)

"Local 961, Line Drivers, Teamsters, Denver, Colorado.

"Central Conference, St. Louis, Missouri.

"As to Local 227, Allied Industrial Workers of America, we attach a copy of a complete memorandum from our New York office. No photostats were supplied, but the information which would have been on such photostats if attached will be found in the memorandum in parentheses.

"Southern Conference of Teamsters filed originally with us on March 30, 1956, and therefore there are no documents which were in effect as of December 31, 1955.

"This, I believe, covers the organizations listed by you concerning the photostats requested. We are presently compiling information on those organizations which have filed with us covering their officers from January 1949 to December 1956, and will supply you with this information within a week.

"Sincerely yours,

"Kenneth C. McGuiness, General Counsel.

"The Chairman. All right, John Lindsay, stand and be sworn."

198 BY MR. HITZ:

Q. Now would you break the reading and go to Page 211 of the same record, please?

Commence with the Chairman giving the oath there.

A. (Reading):

"The Chairman. Mr. Brewster, come forward, please.

"You do solemnly swear that the evidence you shall give before this Senate investigating subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

"Mr. Brewster. I do."

Q. Let me interrupt. This was an open session? A. That is correct.

"Testimony of Frank W. Brewster, Chairman, Western Conference of Teamsters, Seattle, Washington and President of Joint Council No. 28, Seattle, Washington; accompanied by Counsel, Samuel B. Bassett, Seattle, Washington.

"The Chairman. Please state your name, your place of residence, and your business or occupation.

"Mr. Brewster. My name is Frank W. Brewster, 553 John Street, Seattle, Washington.

"I have a statement--

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"The Chairman. Will you state your occupation, please,

199 sir?

"(The witness conferred with his counsel.)

"Mr. Brewster. My occupation is in the statement."

Q. Excuse me, I would like to interrupt there and state that is Count Number 1, your Honor.

* * * * * *

THE WITNESS: (Reading):

"The Chairman. You can read the statement after you state your occupation, if the statement is in order, and if the

200 rules have been complied with.

"Mr. Kennedy. Is it the same statement?

"Mr. Brewster. It is the same statement.

"The Chairman. I am advised that the rules have been complied with, and you will be permitted to read your statement after stating your occupation.

"(The witness conferred with his counsel.)

"Mr. Brewster. It is the same thing I read a few days ago.

"The Chairman. Will you state your occupation, please?

"Mr. Brewster. May I advise with my attorney, please?

"The Chairman. He can advise you as to your legal rights.

"Senator Mundt. I think we should identify the attorney, Mr. Chairman.

"Mr. Brewster. I refuse to give it because it is in the statement.

"The Chairman. Just one moment.

"Counsel, will you identify yourself, please?

"Mr. Bassett. My name is Samuel B. Bassett, of Seattle, Washington, attorney at law.

"The Chairman. The Chair has asked you the question as to what is your present occupation or business.

201 "Mr. Brewster. I refuse to give it because it is in the

statement, and I don't believe the committee has any authority to ask me.

"The Chairman. The Chair orders and directs you to answer the question.

"Mr. Brewster. I courteously decline to answer the question, because I do not believe the committee has the authority to interrogate me.

"The Chairman. The Chair again asks you the question: What is your present business, occupation, or profession? I now order and direct you to answer that question now before this committee proceeds further.

"Mr. Brewster. I respectfully refuse on the grounds that I have already stated.

"Mr. Kennedy. Have you another copy of the statement?

"Mr. Bassett. Yes, sir.

"The Chairman. All right, Mr. Counsel, you may proceed to question the witness.

"Mr. Brewster. I have two statements, Mr. Chairman.

"The Chairman. I wish to state to the witness that we have required this from each witness who has testified in these hearings. The Chair is not disposed, unless he is overruled by the committee, to grant you any special privileges with respect to the procedure of this committee.

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"Senator Mundt. I think the Chair is exactly right. We have to treat all witnesses the same. If he has it in his statement, all he has to do is tell us, and then read his statement. We cannot let the witnesses run this committee.

"Senator McCarthy. Mr. Chairman, I certainly will not vote to overrule the Chair. But in view of the fact that, most likely, criminal proceedings will arise out of these hearings, I think we should lean over backwards to give the witness every possible right. It is a brief statement. We have heard it before. As I say, I certainly will not vote to overrule the Chair, but I

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think nothing can be lost by letting him read his statement. He says he states his occupation in the statement. I would say waste the two or three minutes and let him read it.

"That would be my thought. I am not making such a motion, but I would strongly urge the Chair to let him read his statement.

"The Chairman. Does any other member of the committee wish to be heard?

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"Mr. Counsel, you may proceed to question the witness.

"Mr. Kennedy. You are president of the Western Conference of Teamsters?

"Mr. Brewster. I refuse to answer, because it is in the statement that is filed, and I have it before me to read.

"Mr. Kennedy. What about the Joint Council 28 of Teamsters? Are you president of that?

"Mr. Brewster. I refuse for the same reason.

"Mr. Kennedy. I would like to ask you, just as we start out--

"Mr. Bassett. Mr. Chairman, may I ask a question?

"Mr. Kennedy. Would you identify those documents, please?

"(Documents handed to witness.)

"The Chairman. Did counsel address the Chair?

"Mr. Bassett. Will the witness be permitted to read the statement?

"The Chairman. No; unless he cooperates with the committee. I am not going to let this witness or any other witness tell the committee how it should proceed. We have a rule here, and this is simply treating your client just as all others who have appeared before the committee.

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"Senator McCarthy. Mr. Chairman, I do not want to beat this subject unnecessarily. But on this witness there is evidence of very serious activities on his part. I am inclined to

think that criminal prosecution will arise out of this. We do have a rule that if a statement is presented 24 hours ahead of time that he be allowed to read it.

"You never know when you will run into a Bailey Aldrich in one of these cases. So he cannot have any possible excuse, any possible out, Mr. Chairman, I do urge that he be allowed to read it, not out of any consideration for him, but having a view to the later action that may arise out of this hearing. I wish the chairman would reconsider it. It would just take three minutes.

"Senator Jackson. I suggest to let him read it.

"The Chairman. Is there a majority?

"Senator Revercomb. I will go along with it.

"The Chairman. The majority has overruled the Chair. You are permitted to read your statement. Proceed.

"Senator McCarthy. Let us have the record clear. I am not voting to overrule the Chair. I am merely making a suggestion that the Chair allow him to read it. I am making no motion. I would certainly not make a motion to overrule the Chair.

205 "The Chairman. Well, since there is a majority that the Chair let him read it, the Chair will let him read it. The Chair tries to operate this as a committee, as I think my colleagues know. Sometimes the Chair's judgment is not the best. Sometimes the judgment of the majority is the best.

"All right. You are permitted to read the statement. But I want to make it perfectly clear, as far as the Chair is concerned, that I do not intend to show you any special privileges over anybody else, just because you may be a big shot in the union. I want that understood.

"Proceed.

"Mr. Brewster. Thank you, Mr. Chairman.

"On Saturday, December 15, 1956, there was served on me a subpena addressed to Frank W. Brewster, Western Conference of Teamsters, Seattle, Washington. I am the Frank W. Brewster

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named in said subpena. My address is 553 John Street, Seattle, Washington. I am chairman of the Western Conference of Teamsters, which is a voluntary, unincorporated association, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, affiliated with the A. F. of L. and CIO. The Western Conference of Teamsters is composed

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of 258 local unions and 10 joint councils, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, located in the 11 Western States, the Territories of Hawaii and Alaska, and the province of British Columbia, Canada. Its chief objectives are to aid and assist its affiliated local unions and joint councils in furthering the organization of working men and women in all branches of jurisdiction of the teamsters union; to carry on a program of education for the benefit of the officers and members of its affiliated local unions and joint councils, and to promote sound public relations.

"The above-mentioned subpena commanded me to produce before you the books and records of the Western Conference of Teamsters for the period from January 1, 1951 to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda, and minutes of meetings.

"I desire to state to you my reasons for not producing any financial records or other papers or documents in response to this subpena. My reasons are: First, I am advised by counsel

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that in attempting to investigate the Western Conference of Teamsters and to examine the financial records, correspondence, minutes of meetings and other documents described in said subpena, the subcommittee is proceeding in excess of its lawful authority.

"Second, I am further advised by counsel that the language of the subpena is so broad, sweeping, and lacking in particularity

as to constitute an unreasonable search and seizure under the fourth amendment of the Constitution of the United States.

"This is signed by Frank W. Brewster.

"The Chairman. Your other statement is the same, only refers to another organization, is that correct, Mr. Brewster, as to the reasons?

"Mr. Brewster. That is correct, Mr. Chairman.

"The Chairman. Then the other statement may be printed in the record without taking time to read it.

"It gives the same reason?

"Mr. Brewster. Yes.

"The Chairman. You have no object to that, I am sure.

"(The statement referred to follows:)"

MR. HITZ: Would you skip that, without objection?

MR. PICKENS: No objection.

MR. HITZ: Will you continue to read?

208 THE WITNESS (reading):

"The Chairman. Counsel, please proceed.

"Mr. Kennedy. I have some documents there. Would you identify the documents?

"Mr. Brewster. I refuse to identify the documents because I don't believe this committee has the authority to ask me to.

"The Chairman. You are ordered to identify the documents.

"Mr. Brewster. I still respectfully refuse to identify the documents because I do not believe this committee has the authority.

"The Chairman. Proceed with the questioning, please.

"Mr. Kennedy. Would you identify the document for us, Mr. Adlerman?

"Mr. Adlerman. I hold in my hand a labor organization registration form, filed--,"

MR. HITZ: Excuse me. The second Count: "I have some

documents there. Would you identify the documents?" The Count is in the following language: "Defendant wilfully failed and refused to identify certain documents, including Subcommittee Exhibit No. 23, being documents upon the matter under inquiry before that Subcommittee, and thereby wilfully did make default."

209 THE COURT: Let me ask you a question: Will either side show what document 23 was?

MR. HITZ: Yes, sir.

BY MR. HITZ:

Q. Now, Mr. Kennedy, would you please tell us if Document number 23 appears as one of the exhibits to the appendix of these hearings, and first, if so, would you turn to it? A. I believe it was made an exhibit. I think it was made an exhibit on Page 217, the Exhibit Number 23--Page 321.

Q. Now was that a 3-page document, sir? That is, the front page of the form as we see it on 321, the back page of the form is on 322, and then an attachment to it is on 323? A. That is correct. The chairman made that an exhibit over on Page 217.

Q. All right, sir. Now will you resume the reading where Mr. Brewster said he refuses to identify the documents, and so forth, the fourth line? A. Yes. (Reading):

"The Chairman. You are ordered to identify the documents.

"Mr. Brewster. I still respectfully refuse to identify the documents because I do not believe this committee has the

210 authority.

"The Chairman. Proceed with the questioning, please.

"Mr. Kennedy. Would you identify the document for us, Mr. Adlerman?

"Mr. Adlerman. I hold in my hand a labor organization registration form, filed in accordance with Public Law 101, 80th Congress, with the Bureau of Labor Statistics, United States Department of Labor, Washington, D. C., dated July 23, 1953, signed by Mr. F. W. Brewster. It contains the usual form of

statement, under section 9 (f) and (g) of the Labor Management Act of 1947, and provides the name of the organization, its principal place of business, and its parent organization, the names of the officers, including Dave Beck, F. W. Brewster, and B. I. Bowen.

"Mr. Kennedy. For what year is that?

"Mr. Adlerman. It is dated July 23, 1953.

"The Chairman. He is reading this for the purpose of asking a question.

"Mr. Kennedy. Would you show that document to Mr. Brewster?

"The Chairman. May I ask Mr. Brewster to examine the document just read to him by a member of the staff, and identify the document as a photostatic copy of the record. I ask that the staff member submit it to Mr. Brewster, lay it in front of him as
211 he is testifying.

"The Chair asks you to identify that document, if you can.

"(At this point, Senator Symington entered the hearing room.)

"Mr. Brewster. I respectfully refuse to examine the document because I don't think this committee has the authority to direct me to do it.

"The Chairman. You are ordered and directed to identify the document, if you can do so.

"Mr. Brewster. I respectfully refuse for the same reason.

"The Chairman. You will examine the signature of that document, and state whether that is a photostatic copy of your signature on the original document."

MR. HITZ: Excuse me, sir. That is Count Number 3.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to examine the signature for the same reason.

"The Chairman. You are ordered and directed to examine it.

"Mr. Brewster. I refuse for the same reason.

"The Chairman. Do you state that the report made therein with respect to the organization that it is reporting on is true, correct, or false?"

212 MR. HITZ: That is Count 4.

THE WITNESS: (Reading)

"Mr. Brewster. I refuse because I don't believe this committee has the authority to examine me.

"The Chairman. I order and direct you to answer the question.

"Mr. Brewster. I refuse for the same reason.

"Senator Symington. May I ask a question, Mr. Chairman?

"The Chairman. You refuse for the same reason.

"Senator Symington. Mr. Brewster, do you believe that any committee of the Senate has a right to look into your activities, and, if so, which one?"

MR. HITZ: That is Count 5, your Honor.

THE WITNESS: (Reading)

"Mr. Brewster. I refuse at this time to answer that one, for the reason that I don't believe you have the authority to ask me that.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I refuse for the same reason.

"Senator Symington. Congress makes the laws, and the executive branch administers the laws, but you do not think that any committee of Congress has the right to see whether the laws are being carried out, is that correct?

213 "Mr. Brewster. I refuse to answer the question because I am before a committee that in my opinion is illegally questioning me.

"The Chairman. You are ordered and directed to answer

the question.

"Senator Symington. Are you taking this position on the basis of legal advice?

"Mr. Brewster. I am.

"Senator Symington. Thank you.

"The Chairman. Mr. Adlerman, be sworn, please.

"You do solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

"Mr. Adlerman. I do."

MR. HITZ: Excuse me. Did Mr. Brewster remain in the room when Mr. Adlerman gave his testimony?

THE WITNESS: I believe he did.

BY MR. HITZ:

Q. What is your best recollection on that? A. No, I am sure, Mr. Hitz, he remained seated at the table while Mr. Adlerman testified.

Q. Thank you. Proceed. A. (Reading):

214 "The Chairman. What is the document that you hold in your hand that you have just presented to the witness?

"Mr. Adlerman. It is the labor organization registration form filed pursuant to Public Law 101, 80th Congress, section 9 (f) and (g), containing the financial statements.

"The Chairman. It is a photostatic copy?

"Mr. Adlerman. It is a photostatic copy.

"The Chairman. Where did the committee procure it?

"Mr. Adlerman. From the Department of Labor.

"The Chairman. From the Department of Labor?

"Mr. Adlerman. That is correct, sir. And it bears a stamp received July 27, 1953, Department of Labor, Bureau of Labor Statistics.

"Senator Mundt. Does it carry a signature?

"Mr. Adlerman. Yes. It carries a signature of F. W. Brewster, secretary.

"Mr. Kennedy. And that is for Joint Council 28, of the Teamsters?

"Mr. Adlerman. This is for Joint Council No. 28, The Teamsters.

"Senator McCarthy. That is a financial statement?

"Mr. Adlerman. That is correct.

215 "The Chairman. That is a financial statement?

"Mr. Adlerman. That is correct.

"The Chairman. Does it show in there the official position of the witness, Mr. Brewster?

"Mr. Adlerman. It does, sir. Section 4 (a), subdivision 2, F. W. Brewster, secretary.

"The Chairman. Is there anything else of Mr. Adlerman?

"Mr. Kennedy. No; that is all.

"The Chairman. One moment.

"With respect to the first document exhibited to Mr. Brewster, the witness, and the document which has just been identified and referred to by the witness Adlerman, let it be made exhibit No. 23.

"(Exhibit No. 23 was marked for reference and will be found in the appendix on p. 321.)

"Senator McCarthy. Referring to the last exhibit, was that a correct, accurate financial statement?

"Mr. Adlerman. Are you directing the question at Mr. Brewster?

"Senator McCarthy. To the witness Brewster.

"Mr. Brewster. I refuse to answer for the same reason as I have already expressed.

"Senator McCarthy. Mr. Brewster, you are high in

216 labor circles. You owe a duty to I do not know how many million people. Do you think they are entitled to know whether that is an accurate statement or not?"

MR. HITZ That is Count 6, your Honor.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer because I don't believe you have the authority to ask me."

THE COURT: Excuse me a minute. What happened to Count 5? Did we pass that? I mean, I would like a reference to the page number. Was that question asked by Senator Symington?

MR. PICKENS: That is my understanding.

THE COURT: Top of Page 216.

MR. HITZ: The first question of Senator Symington on 216 is Count 5. I am sorry.

THE COURT: That is all right. I have it.

* * * * * *

THE WITNESS: (reading)

217 "Mr. Brewster. I refuse to answer because I don't believe you have the authority to ask me.

"The Chairman. I order and direct you to answer the question.

"Mr. Brewster. I refuse to answer for the same reason.

"The Chairman. Proceed.

"Senator McCarthy. Mr. Brewster, do you not think that the laboring man, whose money you are accused of misappropriating, should know how the money is being spent, where it is going, whether accurate statements are being made or not? Do you not think he is entitled to that?

"Mr. Brewster. I refuse to answer, because I don't believe you have a right to question me."

MR. HITZ: Count 7, your Honor.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer, because I don't believe you have a right to question me.

"The Chairman. I order and direct the witness to answer the question.

"Mr. Brewster. I refuse for the same reason.

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"Senator McCarthy. I will ask a question now that Senator Mundt asked of a witness yesterday, I think a very pertinent question. Do you think the Congress of the United States has the right

218 to get answers to the questions, the type of which we are asking here?

"Mr. Brewster. I refuse to answer because I don't believe you have the authority to ask me.

"Senator McCarthy. Do you think that you can set yourself above the Congress, and disregard any accurate report to the laboring man whose money you are using; do you think that?

"Mr. Brewster. I refuse to answer you, because I do not believe you have the authority to ask me.

"The Chairman. The Chair would like to propound a question or two to you. Do you take the position that a committee, charged with the duty of studying government at all levels to determine its efficiency and economy, has no authority to get testimony from you or other witnesses with respect to false and fraudulent statements they file with an agency of this Government in order to seek certain privileges granted under the law, by virtue of complying with the law to file such statements?"

MR. HITZ: Count Number 8, your Honor.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer for the reason that I don't believe you have the authority to ask me.

"The Chairman. You are ordered and directed to answer

219 the question.

"Mr. Brewster. I decline for the same reason.

"The Chairman. The statement just presented to you is required to be filed, under the law. It is filed with an agency of this Government, and this committee is charged with the duty of inquiring into the efficiency and economy of the operation of that agency as a constituent part of this Government. Therefore, the Chair orders and directs you to answer these questions upon

that premise, and for the further reason that in the course of such examination into the efficiency and economy of Government, it is the duty of this committee to report upon its findings as it may make in that area to the Congress.

"Therefore, the Chair orders and directs you to answer these questions upon that basis.

"Further, if legislation is needed to improve the efficiency and economy of the Government, under the law, this committee is charged with the duty of so reporting to the Congress. Therefore, upon that basis the Chair orders and directs you to answer these questions.

"In addition to those I have already stated is the reason that labor organizations, under the law, are tax-exempt organizations. You have stated your reasons, and I state the reasons why
220 this committee is looking into this matter. It is impossible for this committee to discharge its duties and responsibilities under existing law and the rules of the Senate, unless it can procure testimony of this nature, and unless it can compel witnesses to give such testimony.

"Mr. Adlerman, you have another document, have you?

"Mr. Adlerman. Yes, sir.

"The Chairman. Will you identify that document?

"Mr. Adlerman. This is a similar labor organization registration form, filed under Public Law 101, 80th Congress, of the Joint Council of Teamsters, No. 28, received by the Department of Labor October 10, 1952, Bureau of Labor Statistics.

"The Chairman. Does the witness' signature appear on that photostatic copy that you just identified?

"Mr. Adlerman. It does.

"The Chairman. The name of whom?

"Mr. Adlerman. It is under the testimony clause: 'I, duly authorized officer of the above union, certify that the information submitted herewith is true to the best of my knowledge and

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belief'--dated October 3, 1952, Frank W. Brewster, Secretary.

"The Chairman. Present the document to Mr. Brewster.

221 "Mr. Brewster. I decline to examine the document for the same reason that I expressed."

MR. HITZ: Excuse me. That is Count 9, your Honor. The direction to present the document and the reply of Mr. Brewster.

THE WITNESS: (reading)

"The Chairman. You are ordered and directed to examine the document and tell this committee whether you identify it as a photostatic copy of the original which you signed, and which your organization filed in purported compliance of the law.

"Mr. Brewster. I respectfully decline for the same reason.

"The Chairman. You are ordered and directed to do so for reasons the Chair has stated.

"Mr. Brewster. I respectfully refuse for the same reason. I don't believe this body has the authority to examine me.

"The Chairman. Is that a photostatic copy of your signature on that document?

"Mr. Brewster. Do you want me to answer it again?

"The Chairman. I asked you a question.

"Mr. Brewster. I have answered it.

"The Chairman. I expect an answer.

222 "Mr. Brewster. I refuse to answer for the same reason."

MR. HITZ: Count 10, your Honor.

THE WITNESS: (reading)

"The Chairman. If I cannot get them, I think there is a way they can be gotten some day.

"Mr. Brewster. I am sorry, your Honor, I thought you asked the same question before.

"The Chairman. Maybe I have. Maybe I repeated it. It will not hurt to repeat it.

"Senator Ervin. In view of the fact that we get repetitious answers, I think it is all right to have a few repetitious questions.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I respectfully refuse for the same reason.

"Mr. Kennedy. Could we go through these, and then we have three or four others signed by Mr. Brewster. Those are from the Joint Council 28, and this is from 174.

"The Chairman. Mr. Adlerman, identify the next document you have in your hand.

"Mr. Adlerman. I don't believe this last one has been marked in evidence.

223 "The Chairman. The document just testified to will be marked Exhibit No. 24.

"(The document referred to was marked Exhibit No. 24 for reference and will be found in the appendix on p. 324.)

"Mr. Adlerman. The next document is a similar document, labor-organization registration form filed pursuant to Public Law 101, 80th Congress. It shows the name of Frank W. Brewster, this time as president of the Joint Council of Teamsters, No. 28.

"It is stamped received by the Department of Labor, Bureau of Labor Statistics, March 29, 1956. In this case, the secretary is John J. Sweeney, and it is signed by John J. Sweeney.

"The Chairman. Is Mr. John J. Sweeney an officer in that organization, Mr. Brewster?"

MR. HITZ: Count 11.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer for the same reasons as I gave you.

"The Chairman. The Chair orders and directs you to answer for the reasons the Chair stated.

"Mr. Brewster. I respectfully decline for the same reasons I have given.

"The Chairman. Mr. Adlerman, does that report that you
224 have read purport to be a financial statement of the organization?

"Mr. Adlerman. Yes. It is a financial statement, evidently for the fiscal year ending 1955.

"The Chairman. That document to which we have just referred will be made 'Exhibit No. 25.'"

"(The document referred to was marked Exhibit No. 25 for reference and will be found in the appendix on p. 327.)

"Mr. Kennedy. Did Mr. Brewster's name appear on that?

"Mr. Adlerman. Yes, his name appears on exhibit 25, as Frank W. Brewster, president of Joint Council of Teamsters, No. 28.

"The Chairman. The Chair hands you, Mr. Adlerman, four other similar statements bearing the signature of Mr. Brewster. I ask you to examine these four, identifying each one as to what it is, for the record, and state whether the name of Frank or F. W. Brewster appears as the executing authority for the union on those statements. Those are photostatic copies of what?

"Mr. Adlerman. Sir, shall I identify them separately?

"The Chairman. Briefly identify each one separately.

225 "Mr. Alderman. The first one is the labor organization registration form under Public Law 101, 80th Congress, filed by the Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 174, Seattle, Washington. It shows F. W. Brewster, secretary-treasurer. It is stamped 'received April 10, 1950, Department of Labor, Bureau of Labor Statistics.' It shows the signature under the same testimony clause I mentioned before of Frank W. Brewster, dated April 5, 1950, and it contains a financial statement for January 1, 1949, to January 1, 1950.

"The Chairman. Proceed with the others.

"It is the intent of the Chair to make the four one exhibit, so proceed to identify each one.

"Mr. Adlerman. The second one is a similar registration form, stamped 'received by the Department of Labor April 25, 1951,' and it shows the name of F. W. Brewster, secretary-

treasurer, Teamsters, Chauffeurs, Warehousemen and Helpers Local Union No. 174. It is signed on April 17, 1951, by F. W. Brewster, secretary-treasurer and it contains a financial statement for the period January 1, 1950, to January 1, 1951.

"The Chairman. Identify the next one.

"Mr. Adlerman. It is a similar registration form, Public
226 Law 101, 80th Congress, the name of the organization Teamsters, Chauffeurs, Warehousemen and Helpers Local Union 174. It shows F. W. Brewster, secretary-treasurer. It is signed on March 13, 1953, by F. W. Brewster, secretary-treasurer, and it contains a financial statement for the period January 1, 1952, to January 1, 1953.

"The next one is a similar registration from under Public Law 101, 80th Congress, for the same organization, local union 174, and it shows F. W. Brewster, secretary-treasurer. It is signed by F. W. Brewster on April 29, 1952. It is stamped, 'received by the Department of Labor on May 12, 1952.' It contains a financial statement for the period of January 1, 1951, to January 1, 1952.

"The Chairman. The four documents identified by the witness will be made exhibit No. 26 to the testimony.

"(The documents referred to were marked 'Exhibit No. 26 for reference and will be found in the appendix on p. 330.)

"The Chairman. Now, I direct that those four documents just made exhibit No. 26 be presented to witness Brewster.

"I ask the witness to examine those documents and to
227 identify them."

MR. HITZ: Excuse me. That is Count 12.

THE WITNESS: (reading)

"Mr. Brewster. I decline to examine them, because it is my honest opinion that this committee hasn't the authority to examine me.

"The Chairman. You are ordered and directed to examine

70 the documents.

"Mr. Brewster. I respectfully decline for the same reason.

"The Chairman. The Chair orders you to do it for the reasons he has stated, and I now order you to examine the signature on those documents and state whether that signature is a photostatic copy of your signature on the original documents filed with the Department of Labor."

MR. HITZ: That is Count 13.

THE WITNESS: (reading)

"Mr. Brewster. I decline to answer, because I do not believe that you have the authority to examine me.

"The Chairman. You are ordered and directed to answer for the reasons the Chair has stated.

"Mr. Brewster. I decline for the same reason that I have given.

228 "The Chairman. The Chair hands you a copy of a telegram dated January 11, 1957, Washington, D. C., International Brotherhood of Teamsters, directed to you, along with a number of vice presidents of the teamsters union, as I interpret the heading. I find on there your name of Frank Brewster, vice president, 553 John Street, Seattle, Washington. I ask you to examine this telegram, which has previously been read into the record, made a part of the record. I ask you to examine that telegram and state whether you received the original, of which it is a copy."

MR. HITZ: Count 14.

THE WITNESS: (reading)

"(The telegram referred to appears on p. 180.)

"Mr. Brewster I refuse to answer, because I do not believe that you have the authority to ask me.

"The Chairman You are ordered and directed to examine it and state whether you received a copy of it.

"Mr. Brewster I refuse for the same reason that I have given

"The Chairman. You are ordered to answer it for the reasons the Chair has stated.

"Mr. Brewster. I refuse to answer it, because I do not believe you have the authority to ask me.

"The Chairman. This telegram, among other things,
229 states that it is signed by Mr. Einar O. Mohn, acting for the general president--I assume of the International Brotherhood of Teamsters--and among other things, the telegram says:

'If any member, officer, or representative of the international or any of its affiliates, after advice of counsel, should assert his constitutional privileges or rights, the assertion of such rights or privileges shall not be the basis for disciplinary proceedings by or within the international.'

"Is that a part of the policy of your organization?"

MR. HITZ: That is Count 15.

THE WITNESS: (reading)

"Mr. Brewster. I respectfully decline to answer, because I don't believe you have the authority to ask me.

"The Chairman. The Chair orders and directs you to answer the question for the reasons he has stated.

"Mr. Brewster. I decline for the same reason I previously have given.

"The Chairman. Maybe you will answer this one. Among other things, it says: 'and that a fishing expedition beyond the scope and authority of the committee is being conducted.'

"Do you say that there are some fish to be caught?

230 "Senator Ervin. A lot of spoiled fish, too, your Honor.

"The Chairman. Do you want to answer that?

"Mr. Brewster. I refuse to answer for the same reasons I have given.

"The Chairman. Do you want to say that there are some pretty big fish that maybe needs catching in your organization, including you? Do you want to answer that?

"Mr. Brewster. I decline, Mr. Chairman, for the same reason.

"Senator McCarthy. I may say to the witness, you are smiling and smirking. This is not a laughing matter. You are accused, and I intend to question you about the specific funds, of misappropriating union funds. You sit back there and take this as a joke. You will not even tell the committee of Congress whether or not you think the workingman should know where his hard-earned money goes. I say to you this is no laughing matter, Mr. Brewster, and you will learn that before we are through with this investigation.

"The Chairman. Proceed.

"Mr. Kennedy. On the question of these reports that you file, the reports that you file with the Department of Labor, as far as your compensation and allowances, did they concur with the reports that you filed with the Internal Revenue Department?"

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MR. HITZ: Count 16, your Honor.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer for the same reason. I don't think you have the authority to ask me.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I decline for the same reason.

"The Chairman. You are ordered and directed to answer for the reasons that the Chair has given.

"Mr. Brewster. I refuse for the same reason.

"Mr. Kennedy. Is there, in fact, a discrepancy in Local 174 between what you filed with the Department of Labor and your income tax return for 1949?"

MR. HITZ: Count 17.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer for the reasons I have given.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I refuse to answer it for the same reason I have already given.

232 "Mr. Kennedy. Was there a similar discrepancy in 1950?

"Mr. Brewster. I refuse to answer for the reason given.

"The Chairman. You have heard testimony here this morning that the labor organization to which you belong paid a part of the cost of construction of Daye Beck's home. Do you have any knowledge of that?"

MR. HITZ: Count 18.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer because I don't believe this committee has the authority to ask me.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I refuse to answer for the same reason.

"Mr. Kennedy. On the income tax and the report that you filed with the Labor Department, is there a discrepancy also in 1951?

"Mr. Brewster. I refuse to answer for the same reason that I have given.

"Mr. Kennedy: Was there a discrepancy in 1952?

"Mr. Brewster. I refuse to answer for the same reason.

233 "Mr. Kennedy. And there was a discrepancy in 1953?

"Mr. Brewster. I refuse to answer for the same reason I have given.

"Mr. Kennedy. There was a discrepancy in 1954?"

MR. HITZ: Count 19.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer for the reason I have already stated.

"The Chairman. You are ordered and directed to answer

the question for the reasons the Chair has stated.

"Mr. Brewster. I decline to answer for the same reasons that I have given.

"Mr. Kennedy. Mr. Chairman, we have information that in March of 1953, an item totaling $8,826.98 came out of the Western Conference of Teamsters to pay some personal bills of Mr. David Beck. In view of that information, and further information that we have, and documentary information in the files of the subcommittee, that was the basis of our subpena for the files of the Western Conference of Teamsters, Local 174, and Joint Council 28. We have some information that some of those union funds coming out of those three unions have been used to pay the personal bills of several high teamster officials.

234 "The Chairman. Let the Chair make this further statement. Under the law, you know, Mr. Brewster, that it is the duty of the officials of the union to report in these financial statements the salary paid any official of the union, and all allowances he gets from the union where the amount exceeds $5,000; do you not?"

MR. HITZ: Count 20.

THE WITNESS: (reading)

"Mr. Brewster. I refuse to answer that, because I don't believe you have the authority to ask me.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I decline for the same reason.

"The Chairman. Then if you or members, high officials, in your union are reporting falsely with respect to the salaries they receive, and the allowances that they get above and in excess of $5,000, would you not regard that as a fraud upon the Government, and also a fraud against the men that you profess to represent as their officials in the labor organization?"

MR. HITZ: Count 21.

THE WITNESS: (reading)

235 "Mr. Brewster. I refuse to answer because I don't think you are authorized to ask me.

"(At this point Senator Mundt withdrew from the hearing room.)

"The Chairman. You are ordered and directed to answer.

"Mr. Brewster. I decline to answer for the same reason.

"The Chairman. The Chair is compelled to express the opinion that you have a better reason than the one you are offering for not answering.

"Proceed.

"Senator McCarthy. Mr. Brewster, is it true that there was purchased for you out of union funds an automobile?

"(The witness conferred with his counsel.)

"Mr. Brewster. Were you through?

"Mr. McCarthy: No, I am not through. I will not be through for a long time."

MR. HITZ: Count 22.

THE WITNESS: (reading)

"Mr. Bassett. The witness--

"Senator McCarthy. I will not hear from counsel. I will hear from the witness.

"Mr. Brewster. Was that part of your question

236 completed? I don't believe you are through.

"Senator McCarthy. The question is completed.

"Mr. Brewster. I decline to answer for the same reason I have already stated.

"The Chairman. You are ordered and directed to answer the question for the reasons the Chair has given.

"Mr. Brewster. I respectfully decline for the same reason I have already stated.

"Senator McCarthy. Were union funds used to pay for the operation and maintenance of your horse stables?

"Mr. Brewster. I decline to answer for the same reason I have stated."

MR. HITZ: Excuse me. That is Count 23.

THE WITNESS: (reading)

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I decline for the same reason that I have given.

"Senator McCarthy. Is it true that repairs and improvements were made to your horse vans and private cars out of union funds?"

MR. HITZ: Count 24.

THE WITNESS: (reading)

"Mr. Brewster. I decline to answer for the same reason
237 I have given.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I decline to answer for the same reason I have given.

"Senator McCarthy. Is it true, Mr. Brewster, that between the years 1943 and 1950 you received at least $30,000 in addition to your salary from local 174?"

MR. HITZ: Count 25.

THE COURT: Just a minute. That is on page 224?

MR. HITZ: Yes, your Honor.

* * * * * *

238 THE WITNESS: (reading)

"Mr. Brewster. I decline to answer for the same reason I have given.

"The Chairman. You are ordered and directed to answer the question.

"Mr. Brewster. I decline for the same reason I have given.

"The Chairman. You are ordered and directed to answer

the question.

"Mr. Brewster. I decline to answer for the same reason.

239 "Senator McCarthy. Mr. Brewster, let me ask you this question, and see if you decline to answer. If it is true, and we have information on this, of course, or we would not be asking the question, if it is true that union funds, in other words, the laboring man's money, have been used to buy an automobile for you, to operate your horse stables, to repair and keep in condition your horse vans and private cars, would you say that was stealing from the laboring man?

"Mr. Brewster. I refuse to answer because I don't believe you have the authority to ask me.

"Senator McCarthy. And do you think that anyone has the authority to ask you that?

"Mr. Brewster. I decline to answer for the same reason that I don't believe you have the authority to ask me that question.

"Senator McCarthy. Do you think the honest laboring man is entitled to know where all the money he pays into the coffers goes, and how it is used?"

MR. HITZ: Count twenty-six.

THE WITNESS: (reading)

"Mr. Brewster. I decline to answer because I don't believe you have the authority to ask me.

"Senator McCarthy. Pardon? I did not get your answer.

240 "Mr. Brewster. For the same reason.

"Senator McCarthy. In other words, you refuse to tell us--

"Mr. Brewster. Because I don't believe you have the authority.

"Senator McCarthy. You refuse to tell us whether or not you think that a laboring man is entitled to know where his money goes?

"Mr. Brewster. I refuse to answer this committee because

I do not believe they have the authority.

"The Chairman. You are ordered and directed to answer it.

"Mr. Brewster. I decline to answer for the same reason.

"Senator McCarthy. Mr. Brewster, and I believe I asked you this question before, would you be willing now to tell what committee or what grand jury or what body you would go before and answer questions about the handling of union money?

MR. HITZ: Count twenty-seven.

THE WITNESS: (reading)

"Mr. Brewster. I decline to answer because I do not believe you have the authority to ask me the question.

"The Chairman. You are ordered and directed to answer
241 the question.

"Mr. Brewster. I decline for the same reason.

"Senator Symington. Will the Senator yield?

"Senator McCarthy. Yes.

"Senator Symington. Do you not realize this just makes a mockery out of the whole concept of congressional investigation, Mr. Brewster?

"Mr. Brewster. I don't believe, Senator, that you have the authority to have me here.

"Senator Symington. Do you believe there is any congressional committee that has the authority to ask you to appear?

"Mr. Brewster. I do not believe that I am in a position where I can answer you personally before this body that question. That is all I meant.

"Senator McCarthy. Where would you answer it, then?

"Mr. Brewster. I still don't think that you got a right to ask me.

"Senator McCarthy. Mr. Brewster, do you think that you are a law unto yourself, that you are so powerful that you can refuse to tell the laboring man whether his money is being stolen by

you and by others in your union? Do you think there is no tribunal that can get that information?

242 "Mr. Brewster. I refuse to answer because I do not believe that you have the authority to ask me the question.

"Senator McCarthy. It is true, is it not, that you refused to allow the Internal Revenue Bureau to inspect your records? Is that true?

"Mr. Brewster. I refuse to answer that because I don't believe you have the right to ask me the question.

"The Chairman. The Chair will now place into the record, and it will be printed in the record at this point, two subpenas served on the witness Mr. Frank Brewster on the 15th day of December 1956. I will identify the subpenas. One was served on the witness Mr. Frank Brewster, Western Conference of Teamsters, Seattle, Washington, and, among other things, in addition to his appearance, he was directed to produce the books and records of the Western Conference of Teamsters for the period of January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda and minutes of meetings.

"The other subpena served on him on that date was addressed to Frank Brewster, Joint Council 28, International
243 Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Seattle, Washington, and that subpena, in addition to requiring his presence, directed that he produce the books and records of Joint Council 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers for the period January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda and minutes of meetings.

"Mr. Brewster, do you acknowledge the service of those

90

subpenas upon you?

"(The subpenas referred to appear on page 38.)

"Mr. Brewster. Will you preface the question again? Did you ask me if I received them?

"The Chairman. The question is do you acknowledge having received the subpenas?

"Mr. Brewster. I have acknowledged that in my statement.

"The Chairman. Did you produce the records required under either subpena? Do you have those records here, now, that you were directed to produce by either of these subpenas?"

MR. HITZ: Count twenty-eight.

244 THE WITNESS: (reading)

"Mr. Brewster. May I ask my counsel?

"The Chairman. Yes.

"(The witness conferred with his counsel.)

"Mr. Brewster. For the reason that I have stated in my statement, I refuse to answer. I have given my reasons.

"The Chairman. I asked you the question, do you have them here now?

"Mr. Brewster. I have not.

"The Chairman. You have not. You did not bring them, then, in response to the subpena?

"Mr. Brewster. That is right.

"The Chairman. And you then have not complied with the subpena with respect to producing the records?

"(The witness conferred with his counsel.)

"Mr. Brewster. I have not brought them for the reasons stated in my statement."

MR. HITZ: That is Count twenty-nine.

THE WITNESS: (reading)

"The Chairman. The fact is you have not brought them, first, and you say for the reasons as stated in your statement?

"Mr. Brewster. That is right.

"The Chairman. Then you have no intention now of com-
245 plying with the order in this subpena from this committee with respect to producing the records of either of these organizations as the committee has directed?

"Mr. Brewster. I decline to answer because I do not believe this committee has the authority to ask me.

"The Chairman. I will order and direct you to answer as to whether you have any intention of producing them.

"Mr. Brewster. I decline--

"The Chairman. In other words, you are not requesting any further time to produce them?

"Mr. Brewster. I decline, because I do not believe that this committee has the authority.

"The Chairman. You are ordered and directed to answer the question. I am trying to ascertain if that is the only reason why you have not produced them.

"Mr. Brewster. I answered the question by I do not believe that you have the authority to ask me the question.

"The Chairman. I understand your repeated expressions of belief. I am asking you a fact now, if you have produced the records and whether you intend to produce them if you have not. I order and direct you to answer that question.

"Mr. Brewster. May I speak to my attorney?

246 "The Chairman. Yes, sir. You may speak to him and he may speak to you.

"Mr. Brewster. Thank you.

"(The witness conferred with his counsel.)

"Mr. Brewster. I do not intend to produce them for the reasons that I have outlined in my statement.

"The Chairman. Are there any further questions?

"Senator Symington. I have one question.

"The Chairman. Senator Symington.

"Senator Symington. Mr. Brewster, based on the testimony,

at least some people may get the impression that you, a leader of labor, believe that labor, or in any case your own union, is above congressional investigation, which, in effect, means above the law. What I would like you to do, if you would, in the interest of the labor movement, to discuss with your counsel something that you can say here, about where you think there is something in the Government that can investigate whether or not these matters are true or false. Would you do that?

"Mr. Brewster. Discuss it with my attorney?

"Senator Symington. Yes. That is what I ask you to do.

"(The witness conferred with his counsel.)

"Mr. Brewster. May my attorney make a statement in my
247 behalf?

"The Chairman. No, sir. You can answer the question.

"If a Senator wishes to interrogate an attorney, to have any colloquy with him, the Chair would grant him that privilege. But a question directed to the witness will be answered by the witness if answered at all.

"(At this point, Senator McCarthy withdrew from the hearing room.)

"Senator Symington. I would think the lawyer can tell the witness and the witness can tell the committee.

"The Chairman. The witness could answer on the advice of his lawyer as to what the lawyer thinks the law is.

"Senator Symington. That was my request, Mr. Chairman.

"The Chairman. But only as to his legal rights is counsel permitted to counsel his client. He can answer that question within his knowledge as to whether he would respond to any other jurisdiction.

"Mr. Brewster. Senator Symington, I have the highest regard for you and all the other members in this committee and Congress and the Senate, believe me. But, for the reason I have
248 already stated, I decline to answer that at this time.

"Senator Symington. Well, I must say that I do not think that is a good answer.

"Mr. Brewster. It might not be.

"The Chairman. Are there any questions, Senator Ervin?

"Senator Ervin. Mr. Brewster, I was intrigued by your statement that one of the three chief objects of the Western Conference of Teamsters is to promote sound public relations. That is a fact, is it?

"Mr. Brewster. Yes.

"Senator Ervin. Is it not a fact that it is one of the chief objects of the Western Conference of Teamsters to promote sound public relations?

"(At this point Senator McCarthy entered the hearing room.)

"(The witness conferred with his counsel.)

"Mr. Brewster. I decline to answer for the same reason that I have given.

"Senator Ervin. You did answer that when you put this statement into the record, did you not?

"Mr. Brewster. I decline to answer.

"The Chairman. The witness is ordered and directed to answer.

249 "Senator Ervin. I just want to ask you this question--

"The Chairman. Wait a moment. The witness is ordered and directed to answer the question. He waived his right not to answer it. Since he made it in his statement, we have a right to interrogate about it.

"(The witness conferred with his counsel.)

"Mr. Brewster. I refuse on the same grounds.

"The Chairman. The Chair orders you and directs you to answer for the reasons that the Chair has given.

"Mr. Brewster. I respectfully refuse for the same reason.

"Senator Ervin. Do you think that when you come before this committee and you quibble about its legal authority to ask you

about the accuracy of reports made by you as an officer of your union, pursuant to an act of Congress, that you are promoting sound public relations?

"Mr. Brewster. I decline to answer for the reason that I don't believe you have the authority to ask me the question.

"The Chairman. The Chair orders and directs the witness to answer the question for the reasons that the Chair has stated with respect to all questions that have been asked the witness, because of the jurisdiction of this committee and the duty with
250 which it is charged, as the Chair has stated for the record.

"Mr. Brewster. I decline for the same reason.

"Senator Ervin. Have you set forth in your income-tax returns to the Federal Government every cent of money that you have received for your personal benefit from any organization belonging to the teamsters union or affiliated with the teamsters union?

"Mr. Brewster. I decline to answer for the same reasons I have given.

"Senator Ervin. And your only reason for declining to answer is your assertion that this committee lacks authority to put that question to you?

"Mr. Brewster. I decline to answer because I don't believe you have the authority and the right to ask me the question.

"Senator Ervin. That is the only reason on which you base your answer?

"Mr. Brewster. I answered the question.

"The Chairman. Do you have any other reason?

"Mr. Brewster. I have answered the question.

"The Chairman. You are ordered to answer my question now. Do you have any reason--

"Mr. Brewster. I refuse to answer your question on the same grounds that I have already stated.

251 "The Chairman. You are ordered and directed to answer

the question for the reasons the Chair has stated and for the further reason that if you have any other reasons other than that which you have stated, it is your duty now, if you expect in the future to take any advantage of it, to so state. The Chair orders and directs you to state whether you have any other reasons at this time for failing and refusing to answer these questions."

MR. HITZ: Count thirty.

THE WITNESS: (reading)

"Mr. Brewster. I refuse for the reason I don't believe you have the authority to ask me the question.

"The Chairman. You are ordered and directed to answer it.

"Mr. Brewster. I decline for the same reason.

"The Chairman. Proceed.

"Senator Ervin. On your receipt of the telegram which was presented to you a moment ago, did you vote for the international of the teamsters union to pledge itself not to take any disciplinary action against any of the officers or agents of its local union in case they invoked the fifth amendment when asked whether or not they have embezzled and misappropriated the funds of their locals?

252 "Mr. Brewster. I decline to answer for the reason I don't believe you have the authority to ask me.

"Senator Ervin. That is all, Your Honor.

"The Chairman. You are ordered and directed"--

MR. HITZ: Excuse me; I am sorry. Count thirty-one was the question beginning "On your receipt of the telegram."

THE COURT: On page 229.

MR. HITZ: Yes.

THE WITNESS: (reading)

"Mr. Brewster. I decline to answer for the reason I don't believe you have the authority to ask me.

"The Chairman. You are ordered and directed to answer the question.

86

"Mr. Brewster. I decline for the same reason.

"The Chairman. You are ordered for the reasons the Chair has previously stated.

"Mr. Brewster. I decline for the same reason.

"The Chairman. Are there any further questions? The witness will remain under cognizance to reappear under the present subpena at such time as the committee may desire to have further testimony from the witness in the course of these hearings.

"Do you accept that comment?

"Mr. Bassett. Yes, sir, we accept.

"The Chairman. You agree to that?

253 "Mr. Bassett. Yes.

"The Chairman. If there are no further questions, the witness will step aside for the present.

"Mr. Bassett. May I inquire, Mr. Chairman, whether we are excused?

"The Chairman. Not at the moment. Perhaps later.

"Mr. Bassett. We are not excused for the day?

"The Chairman. You are excused for the moment.

"Mr. Brewster will remain subject to call, until we go through the other witnesses."

MR. HITZ: That is all; thank you, sir.

Your Honor, I should point out on page 226, on the fourth line beginning "Mr. Brewster. Will you preface the question again?" that from there down through Mr. Brewster stating "That is right," just below the middle, are the questions and answers which constitute violations of Counts twenty-eight and twenty-nine.

I have made an announcement with respect to 28 and 29 which your Honor may have taken to relate to a particular question there. It is the whole group of questions that relates to both Counts.

The questions that were asked seemed to embrace both subpenas, and the grand jury broke the double demand up into one demand for each of the two subpenas, so that neither one of those particular questions

there, none of them can be said to relate to either the 28th or the 29th
254 Count, but all of them relate to both.

Would the Clerk mark this Government 7 for identification, please.

(Government's Exhibit 7 was marked for identification.)

MR. HITZ: And mark this one Government Number 8.

(Government's Exhibit 8 was marked for identification.)

MR. HITZ: And mark this one Government Number 9.

(Government's Exhibit 9 was marked for identification.)

MR. HITZ: Your Honor, for the record and for the benefit of the Clerk, Government 7 for identification is Committee Exhibit No. 23. That is referred to in the hearings.

I should say that on the first page of Government Number 7 for identification, at a time when I was not planning to use this because it was duplicated in the hearings, I put myself a number "1953" opposite the title of the organization, which title is Joint Council of Teamsters No. 28, and that brought up to the front the date that actually appears at the time of its execution by Mr. Brewster.

I think I should state that that is not really part of the document, and the only reason I am offering this at the moment, and the others, is that it is not possible, apparently, to read everything that is printed in the duplication of this in the appendix to the hearings.

255 THE COURT: What does the first page of the exhibit contain now?

MR. HITZ: The first page of Government 7 for identification is the title "Labor Organization Registration Form," and it gives the name, title, compensation, and how selected of the three officers of the Joint Council of Teamsters No. 28 for the year 1953, a document filed with the Labor Department.

The next document, Government Number 8 for identification, is the actual Committee No. 24 referred to in the hearings. It is a similar document to Government 7 for identification. It relates to the Joint Council of Teamsters No. 28, as did Number 7 exhibit, but it is for

another year. It is for the year 1952. It relates to the same officers of that organization.

Government Number 9 is Committee Exhibit No. 26, which is composed of four documents, arranged in that fashion by the Chairman. These four documents are the registration forms filed with the Labor Department by the Local No. 174 for the years 1950, '51, '52 and '53. The officers involved in Government 9 for identification are O'Reilly, Brewster, and LaPoma.

All of these documents that I have identified here are documents of three pages each, except Government 9 which is an assemblage of four documents of three pages each.

The third page of each document is a typewritten supplement to
256 the information otherwise provided on the form. The third page of each of these has considerable markings on it. These markings are directions by the printer who printed up the hearings that we have been reading here, because, instead of duplicating by way of some photographic method, as he did in pages 1 and 3, he actually printed again the third page supplement, so that he gave his own printer's directions, and that is the reason for those markings in those instances.

With that explanation, your Honor, we offer for further elucidation of the record--because you can't read it in the appendix to the hearings--Government's 7, 8 and 9 for identification.

THE COURT: Any objection?

MR. PICKENS: No, your Honor. Mr. Hitz represented that these are the documents that were shown the witness. I will not object to their introduction.

THE COURT: Very well.

(Government's Exhibits Numbers 7, 8 and 9 for identification were received in evidence.)

MR. HITZ: I will establish that.

BY MR. HITZ:

Q. Are you able to tell us whether that Committee Exhibit 23 was

the one that was actually used at the hearing and shown to Mr. Brewster in the fashion that the record indicates? A. I can't identify it exactly.

257 It would be the procedure that we would follow, that it would be one and the same document.

Q. I see. A. But I can't remember exactly that this is the document. It would appear from the description in the hearings that this was one and the same, and from the procedure that we follow this is one and the same.

Q. And your best recollection, then, and information on that, is that it is or is not? A. It is.

Q. The same questions with respect to Government No. 8 for identification. A. Yes, I believe so, and it is my same answer for this.

Q. And Government No. 9 for identification? A. My same answer for this.

MR. HITZ: Does that take care of it, Mr. Pickens?

MR. PICKENS: I have no objection, your Honor.

MR. HITZ: Thank you.

THE COURT: May I glance at them?

MR. HITZ: Yes, your Honor.

(The exhibits were handed to the Court.)

MR. HITZ: Your Honor, Mr. Pickens, for Mr. Brewster, does not contest the accuracy of the print of the subpoenas Numbers 36, 32

258 and 33 served upon Mr. Brewster in his guises, one as an officer of the Western Conference of Teamsters, and the second one as an officer of the Joint Council No. 28, and so forth, as appearing on page 38 of the print of the hearings, being Government Number 5.

MR. PICKENS: That is correct, your Honor.

THE COURT: Very well.

MR. HITZ: Do you likewise concede the accuracy and the meaning of the certification of service that is contained on those pages, and page 39, with reference to service of the subpoenas upon Mr. Brewster?

MR. PICKENS: We concede that he was served at approximately

9:00 o'clock a. m. on the 15th day of December, 1956, in his office in Seattle.

MR. HITZ: Thank you.

And with that stipulation we will not offer the subpoenas or testimony concerning the service.

THE COURT: Very well.

BY MR. HITZ:

Q. Mr. Kennedy, would you be good enough to turn in the hearings, Government No. 5 (6), to that portion of them where Senator McClellan puts in the record a letter from Mr. Leedom--Mr. McGuiness, in which he states what organizations of the Teamsters Union were registered with the Labor Department, and which ones were not? A. That
259 is on page 196.

Q. Mr. Kennedy, Teamsters Joint Council No. 28, Seattle, Washington, is listed among those which are registered with the Labor Department by reason of having filed on their behalf certain registration forms; is that correct, sir? A. Yes, sir.

Q. And if you will look at the early part of that letter you will see, will you not, that Joint Council No. 28, and certain organizations subsidiary to that, being the Legal Fund of Seattle, the Legislative Funds of Seattle, the Donation Funds of Seattle, and the Promotional League of Seattle-- A. And the Building Association.

Q. Beg pardon? A. And the Building Association.

Q. Where is that? A. Right above the Promotional League.

Q. --and the Building Association both of Seattle and of Portland, are organizations which are not registered with the Labor Department; is that correct, sir? A. That is correct, yes, sir.

Q. Did the Committee at the time of the questioning of Mr. Brewster, to your knowledge, have any information concerning the use by Mr. Brewster for any unofficial purpose, any personal purpose, of the funds of the Joint Council No. 28 of Seattle without any of these descriptive names other than the Joint Council No. 28? A. We had some
260 information. Yes, we had some information in that regard.

Q. Was it to the effect that there was such personal or unofficial use of union funds of the Joint Council No. 28? A. Well, could I explain the answer?

Q. Yes. A. We had some--

Q. I am endeavoring not to lead you. That is the reason I am trying to ask these in that fashion. A. We had some information regarding the misuse of union funds in certain teamster organizations in the Seattle area. We had information that this centered around the Western Conference of Teamsters, and Joint Council 28, and Local 174; that this involved, for the most part, Mr. Dave Beck but in some cases involved Mr. Frank Brewster; that the majority or most of the misuse of the union funds that had come to our attention, or what we were investigating, involved Mr. Dave Beck.

We were investigating or looking into the matter at that time to determine how the money had been misused and out of what organizations. We were aware of the fact, of course, that these organizations were supposed to file with the Labor Department and the NLRB regarding their finances, and we were pursuing that here in Washington and pursuing or attempting to get further information on these allegations in the field.

261 Q. What years did that information embrace, Mr. Kennedy? A. Well, to the best of my recollection--I am trying to separate what we knew at that time with what we found out later on, and that is my problem, but to the best of my recollection it embraced the years approximately '49 and 1950 through 1954, '55. About 1950 to 1955.

Now, we were later to find out that there were other years involved, but I believe at that time we thought that the misuse centered around the years 1950, or 1949, through 1955.

Q. Mr. Kennedy, what was the purpose of the Committee, to your knowledge, and of you as its interrogator, at this hearing in requesting Mr. Brewster to identify documents which have become 7, 8 and 9 in this case, being the registration forms that have been described a moment ago of Joint Council of Teamsters 28, and of Local No. 174, in all of which documents Mr. Brewster's name appears as an officer?

Do you have in mind my question? What was the purpose in asking for identification of such documents?

MR. PICKENS: I object, first, to what was the purpose of the Committee. I realize in some of these matters he can testify as to hearsay, but I think the people should be identified if he is going to testify from hearsay.

262 From his own standpoint, testifying now as to the purpose, it seems to me to be a pure self-serving declaration. I don't know whether what his purpose was in mind has anything to do with the pertinency or relevancy of the question.

THE COURT: Would it not be of some assistance to the Court to determine whether or not these various questions were pertinent to the inquiry? I mean, you must realize that I have relaxed the rules of evidence insofar as the government is concerned, and the defense counsel. We are not trying the case before a jury, but, if you wish to press your objection, I will have to rule on it.

MR. PICKENS: Well, your Honor, nowhere in the indictment--and I don't know that the government has told us yet what the purpose of the inquiry was. True, Mr. Kennedy has stated, I believe, that it was labor racketeering, but the government has not taken any position as to what the inquiry was.

If Mr. Kennedy is going to tell what the purpose of the Committee is, I think we ought to know who he talked to and what their statements were. I do not think he should be allowed to make a broad generalization of "this was the Committee's purpose" and then go on at length. I think we ought to know what the source of his information was and what members of the Committee he talked to, and what he told them, rather than to have a summary of the purpose of the Committee. And I object for that reason.

263 THE COURT: Well, can you narrow the testimony down to that?

MR. HITZ: I can. I think it might be helpful to reframe the question in this fashion: What information was sought by the Committee and by Mr. Kennedy, as its interrogator, in seeking to obtain Mr. Brewster's identification of these documents on which his name appeared?

I think that brings it a little bit more definitely to the point we were after, rather than "What was the purpose?"

I think he can and should state to us what information the Committee and he sought to elicit.

THE COURT: I will hear you again.

MR. PICKENS: Well, I believe that the actual physical data of the information that the Committee had is the best evidence of this, rather than allowing Mr. Kennedy to summarize it without us knowing what he is summarizing.

So I object to that for the same reason.

THE COURT: Do you have that information available?

MR. HITZ: Independently of what his oral testimony would be?

THE COURT: Yes. Do you have it?

MR. HITZ: No. It clearly goes to proof of pertinency as to what they hoped to and sought to obtain from their questioning in their activities, which is to ask for identification.

264 THE COURT: Well, I think I am going to allow wide latitude on both sides in this case, to get the complete picture. I will eventually have to rule on whether or not these questions were pertinent to the inquiry. I am sitting here in the dual capacity of judge and jury.

Are counsel for either side acquainted with the recent case of Sacher versus United States, 240 Fed. 2d. page 46, decided in 1957?

MR. HITZ: I am, sir.

THE COURT: The Court comments on the latitude that should be given to committee counsel on the stand.

> "The testimony of the legal counsel of the Committee was admissible to establish the pertinency of the questions, since broad latitude should be allowed to establish the background and basis for a given line of Congressional inquiry."

It seems to me that I have got to give the government considerable latitude, just as I am going to give the defense.

I will let you proceed.

MR. PICKENS: Your Honor, may I say this?

It is my understanding that I have a continuing objection. I don't wish to interrupt his direct examination, but I shall if there are grounds other than I have stated, of course.

THE COURT: Well, if we were before a jury, Mr. Pickens, I would hold the government to strict proof in this case. I would be careful not to let any hearsay in, or anything like that, but I assume that you are going to propound many questions to Mr. Kennedy and you may be asking him, for instance, things that might require him to give you an answer based on hearsay, I don't know, I don't know what you have in mind, but I am going to give you as much latitude as I am giving Mr. Hitz.

MR. HITZ: Thank you.

BY MR. HITZ:

Q. Do you have the question in mind, Mr. Kennedy? A. "What would the purpose of your request"--

Q. I changed it to make it more specific.

What information did the Committee and did you seek to elicit when you attempted to get Mr. Brewster to identify the documents that bear his name filed with the Labor Department which have become Exhibits 7, 8 and 9 in this trial? A. Well, as the title of these hearings, which it states on the top of this--I guess it is No. 5.

Q. Yes; it is 5. A. We were looking into violation or nonenforcement of Government laws and regulations in the labor union field. That was the investigation that we were making, and it arose originally out of our procurement investigation that had taken place in 1955 and 1956, and we were aware that under the Taft-Hartley Act, that labor unions, in order to make use of the services of the NLRB, had to file financial statements as well as non-Communist oaths with the Labor Department, and that they had to give in those financial statements the list of officers that received compensation or allowances exceeding $5,000.00.

We made further inquiry, when we started to receive information during the investigation in 1955--or really 1956--that some of the labor officials or union officials were not filing complete and true financial

statements with the Labor Department. We made further inquiry with the Labor Department and the NLRB to find out what position they were taking on this when they received these statements, and if it was called to their attention that these statements were false.

We were surprised to learn that they felt that there was nothing that they could do. And then we went further than that, to find out what kind of labor organizations they considered had to file with them in order to make use of the NLRB, and then we found further that many organizations, which are of extreme importance in the labor organization, such as the Western Conference of Teamsters, do not file at all.

So we were making inquiry of the Government and then we were making inquiry to find out whether the information that we had, that these statements that were filed with the Labor Department were false or true,

267 whether the information that we had received that Mr. Beck and in some cases Mr. Brewster had used union funds for their own personal benefit, and then had not made this known to the Government, whether that then made this statement false and what the Government intended to do about it, the executive branch of the Government. And if it was true, then that was fine, but, if it was false or inaccurate, whether the Government was being completely efficient and economical in not following through, or whether they should just let this go by.

That is what we were inquiring into. And we requested identification of these reports because they contained the financial statements of these labor union officials out on the West Coast, certain of them, to find out whether they were going to be true and accurate in view of the information that we had that they were inaccurate.

* * * * * *

Q. Mr. Kennedy, did the Committee, to your knowledge, at the time that Mr. Brewster was called as a witness, have any information

268 with respect to the misuse by him, or on his behalf, of the funds of the Joint Teamsters Building Association? A. Well, Mr. Hitz, it again comes down to the fact that we had information that there was a misuse of union funds; that it centered around the Western Conference of

Teamsters, and beyond that around Joint Council 28 and around Local 174. Whether the Joint Council 28 Building Association was even known to me at that time, I am not certain. It later developed that there was great misuse of union funds arising out of Joint Council 28 Building Association on the part of Mr. Beck. Now, whether that information was known to me on January 15, I am not certain at this time.

Q. I see. A. I just knew that we had information that there was a misuse of union funds from these unions, but I can't tell you at this time that we knew about the misuse from the Joint Council 28 Building Association.

Q. I see. Thank you.

MR. PICKENS: I ask that the answer be stricken. It is either a yes or a no.

THE COURT: Well, can you give a yes or no answer to that?

THE WITNESS: I can't give a yes or no answer for the reasons I have stated. It can't be yes or no.

269 MR. HITZ: We don't object to it being stricken.

THE COURT: I will grant the request, then.

BY MR. HITZ:

Q. Mr. Kennedy, I would now like to ask you some questions about the pertinency of particular questions that were refused answer, and which have become Counts in the indictment.

I think your answer has covered the pertinency of Counts One through Four. I would like to ask you a question or two concerning this question that was asked by Senator Symington of Mr. Brewster, and which has become Count Five. It will be found in the hearings, Government's Number 6, a little above the middle of page 217, the question being:

> "Mr. Brewster, do you believe that any committee of the Senate has a right to look into your activities, and, if so, which one?"

This question was asked after Mr. Brewster had stated that this committee, or subcommittee, had no right to ask him the five previous

questions.

Would you tell me if you can state what information the Committee sought to elicit from obtaining an answer to that question? A. Our Committee was attempting to get this information in order to suggest possible legislation or suggest that certain steps be taken by the executive branch of the Government.

270 Mr. Brewster refused to cooperate with our Committee. We felt that it was necessary for the Congress to get the information. The question was based on whether Mr. Brewster, if he would not answer the questions to us, whether he would answer it to anyone in Congress.

* * * * * *

271 MR. PICKENS: Your Honor, I am assuming my same objection goes to all these questions, and to this question, Count Five, that Senator Symington asked, because I do not think Mr. Kennedy has really testified why Mr. Symington's question was pertinent, and I am just assuming that my general objection to his testifying to things that really should be testified to by the members of the Committee, covers this.

The Chairman had already, your Honor will recall, given two long opening statements as to the purpose of the inquiry, and it seems to me that he has covered pretty much the background. And I seriously question whether any other evidence, other than the statement of the Chairman,

272 these two statements by the Chairman, is really admissible to show the pertinency of these questions.

Now, I know the Bowers case says that when the question is not pertinent on its face, that the Government has to prove pertinency. And just because the Bowers case says that the Government has to prove pertinency--and I have read it four or five times--I cannot find any place in the Bowers case that gives the wide latitude that some people have--and I am not referring to your Honor's remark--have drawn from the holding in the Sacher case. I think all the Bowers case says is that the Government has to prove pertinency if the question is not pertinent on its face. And it seems to me if we go beyond the statement of the purposes of these hearings as set forth by the Chairman, we are allowing counsel

of the Committee, and other members of the Committee, to come along and say what they hope they had in mind when they asked these questions, and I think it is just improper.

THE COURT: Well, I can understand your reasons, but I cannot agree with you, Counsel.

BY MR. HITZ:

Q. Mr. Kennedy, I would now like to ask a question concerning the question that became Count Six, which will be found on page 217. The question is:

"Mr. Brewster, you are high in labor circles. You owe
273 a duty to I do not know how many million people. Do you think they are entitled to know whether that is an accurate statement or not?"

Will you tell us what information the Committee could have obtained that would be of interest to it in its purpose in this hearing, from that question? A. Well, Congress in the Taft-Hartley Act stated that these financial statements should be made available to the members of the labor union. If the information that we had was correct, that these statements that had been filed with the Labor Department, were inaccurate, then these statements that were to be distributed are made public to the members of the labor union, these same statements would also be inaccurate.

That would be the--I don't know whether I am supposed to say this. I would think that that was the basis of the question. I mean, that is the basis of why we wanted to know whether this statement was accurate or not, would be what we were trying to find out, because if it was inaccurate, it was being distributed inaccurately to members of that labor union.

Q. Well, Mr. Kennedy, did you have in mind--and I think this is practically what you have said--that the entire Taft-Hartley Act required divulgence to the people, that the question concerned "You owe a duty to I do not know how many million people"? A. That is right. Under the Taft-Hartley Act the financial statement had to be distributed to the members of the union.

274 Q. Count Seven is this question:

"Mr. Brewster, do you not think that the laboring man, whose money you are accused of misappropriating, should know how the money is being spent, where it is going, whether accurate statements are being made or not? Do you not think he is entitled to that?"

Would you say your answer to that question concerning what information was sought to be elicited would be the same as to Count Six? A. Yes. And, again, what the Government--we were anxious to find out, and whether this information that we had was accurate, that these statements were not complete and true, what steps the executive branch of the Government intended to take about it.

MR. PICKENS: I am going to interpose further objection to this type of testimony, your Honor.

THE COURT: Very well.

MR. PICKENS: I do not under any set of circumstances think that the Government can prove that the questions in Counts Six and Seven are pertinent. It is a "What is your opinion" type of question, which to me is worse than a "Do you know" question, and I submit that it could not possibly be pertinent to any inquiry that this Subcommittee could lawfully be pursuing. I object to the testimony from that standpoint

275 because I do not see that it is connected up at all with Counts Six and Seven.

THE COURT: At the proper time I might make a statement on it.

MR. HITZ: I wonder if I could reply to Mr. Pickens at this time.

THE COURT: I will give you an opportunity.

MR. HITZ: Your Honor, Section 9 (f) (A) (6) (1), all found on page eleven of the Labor Management Relations Act, requires a labor organization seeking the benefits of the National Labor Relations Board to file with the Secretary of Labor, among other detailed statements, ones that are set out further in its part . and part (1) of it, a statement with respect to the expulsion of members and the grounds therefor.

In answer to Mr. Pickens, it could well be within the legislative

prerogatives of this Committee to suggest either to the Labor Board or to the Labor Department, or to enact in legislation, that no union organization member could hold office in any union organization if he wilfully withheld from any Government agency or legislative committee information which it was necessary for that union to file with any Government Agency, and that if he did so he could be subject to expulsion under Part (1).

Clearly this information with respect to what Mr. Brewster's
276 attitude was, and the reason for it, in withholding from a legislative committee that was attempting to see whether an act of the legislature was being complied with, would be something within their purview.

THE COURT: I understand your argument.

MR. HITZ: Thank you, sir.

THE COURT: Let me just make this observation in going along, because I may want to ask Mr. Kennedy some questions.

Now, what I have to say does not indicate how I am thinking, particularly, in connection with this case in anywise.

You have this question under Count Six of the indictment, I think propounded by Senator McCarthy, I believe--I am not sure--"Mr. Brewster, you are high in labor circles. You owe a duty to I do not know how many million people. Do you think they are entitled to know whether that is an accurate statement or not?"

Now, that is Senator McCarthy engaging in colloquy, or propounding a question to Mr. Brewster. It seems to me one of the most important issues in this case, or maybe the most important issue, is whether or not, number one, whether or not this subcommittee had the authority and the power to engage in this kind of an investigation. That has to be decided.

MR. HITZ: All right.

THE COURT: I think you will agree with me on that. Correct?

277 MR. HITZ: Oh yes, I do.

THE COURT: And assuming that they did have the power, did they have the right to inquire of the union which Mr. Brewster was

associated with, Western Teamsters and Local 28, did they have the right to go into the internal affairs of the union and show that the union did not file truthful and proper forms as required by law.

I think you mentioned paragraph 9 (f) there, or (g).

MR. HITZ: Yes, sir.

THE COURT: All right. Now, if the union under the law was required to file these reports and even assuming that there was no law saying that they had to be truthful statements, could the subcommittee, of which counsel, chairman, and members, ascertain whether or not it might be a good idea to recommend to the Congress that remedial legislation be passed so that in the future, in order to control or do business properly with those people who are seeking the services and facilities of the National Labor Relations Board; does the Congress have the right to require the unions to make a truthful statement?

I think that is one of the important issues in this case.

MR. HITZ: It certainly is.

THE COURT: I may be wrong about it, but to me that seems it may be probably the most important issue in the case, or one of the

278 most important.

Now, in connection with that, the Committee was given wide latitude in connection with calling witnesses before it and seeking information to determine that one particular point--whether or not these abuses had been prevalent or they discovered that unions were dishonest in filing these statements and not setting forth the truth, and after they received all of that information, should they recommend to the Congress that the Congress do something about the situation.

Now, I have got to allow wide latitude in this case to determine the answer, because the duty is going to fall upon me to make a decision.

Now, I think if we accept that as one of the important issues in the case, and try to go down the middl , I think we might be able to get somewhere with it.

Now, maybe Mr. Pickens has some other ideas, but that seems to me to be one of the most important issues of the whole trial.

MR. HITZ: That is the case, as we see it, your Honor.

THE COURT: Now, again not indicating how I feel about this case, I am going to review these various counts carefully, after Mr. Kennedy has testified in detail and after defense counsel has had an opportunity to offer all the evidence they want, and then I am going to have to review these counts carefully and find out whether or not the questions that were asked in my opinion were pertinent to the inquiry.

279 MR. HITZ: Yes, your Honor. Thank you.

THE COURT: All right.

MR. HITZ: I believe that I had asked Mr. Kennedy concerning Count Eight.

BY MR. HITZ:

Q. Now, Mr. Kennedy, with respect to Count Eight, a question asked by the Chairman and found at the bottom of page 217 of Government 6, which is "Do you take the position that a committee, charged with the duty of studying government at all levels to determine its efficiency and economy, has no authority to get testimony from you or other witnesses with respect to false and fraudulent statements they file with an agency of this Government in order to seek certain privileges granted under the law, by virtue of complying with the law to file such statements?" would you tell us what information the Committee was seeking to elicit upon asking that question? A. Well, Mr. Hitz, we had already found from the testimony of Mr. Leedom and Mr. Mitchell that even though the Government learned or knew that the financial statements that were filed by union officials were inaccurate, that they felt that there was nothing they could do about it. We had also learned that there were certain organizations within labor unions that filed no statements at all.

The Chairman, in this question, and the Committee, was attempt-

280 ing to find out whether the information that we had regarding these statements being false, whether this information was correct or incorrect. As we discussed before, we had some information that there was misuse of union funds in the Western part of the country on the part

of certain teamster officials and we wanted to find out whether this information that we had was correct or incorrect, and then whether these statements that were filed by these people with the Labor Department were accurate.

Q. Now, the next Count is Count Nine, Mr. Kennedy, which relates to a document filed with the Labor Department dated October 3, 1952. That is noted on the top of page 26 where Mr. Adlerman is asked whether or not Mr. Brewster's signature appears on the copy that was present before the Committee, and he stated that it did, and then--

THE COURT: Excuse me, Mr. Hitz.

MR. HITZ: I am sorry, your Honor.

THE COURT: Did you mean page 218? I thought you mentioned another page number, but does not Count Nine refer to page 218?

MR. HITZ: It does, your Honor.

THE COURT: I just wanted the record straight.

MR. HITZ: Yes, sir. It appears at the bottom of page 218 instead of 26 as I indicated.

BY MR. HITZ:

281 Q. --that Mr. Adlerman was referring and had before him a document executed by Frank W. Brewster, as Secretary, on October 3, 1952, and the Chairman then says to Mr. Adlerman, "Present the document to Mr. Brewster," and Mr. Brewster stated "I decline to examine the document."

Now Committee Exhibit Number 24, which has become Government Number 8 at this trial, is a registration form with the Labor Department of Joint Council of Teamsters No. 28, dated October 3, 1952.

Would your answer to the question with respect to what information the Committee sought to elicit by having identified that document be the same as with respect to other documents that had to be filed with the Labor Department bearing the name of Frank W. Brewster? A. That is right.

MR. HITZ: Your Honor, we will pass Count Ten. It is obvious with respect to that count what the pertinency is, without relating it,

and your Honor will note that it relates to the document that has just been mentioned in Count Nine.

Passing now to Count 11, which is to be found on page 219 of the hearings, "Is Mr. John J. Sweeney an officer in that organization, Mr. Brewster?" did the Committee have information that he was? A. Well, from the testimony it states that the Secretary is John J. Sweeney. It is signed by John J. Sweeney.

282 Q. Yes, sir. A. And we wanted to have the identification of John J. Sweeney from Mr. Brewster.

MR. HITZ: Your Honor, we can pass Count Twelve, noting that it relates to Subcommittee Exhibit No. 26, which is Government's No. 9, another registration form filed with the Labor Department bearing the name of F. W. Brewster as Secretary-Treasurer.

BY MR. HITZ:

Q. Next with respect to Count Thirteen, which is to be found in the hearings on page 221.

Mr. Kennedy, that question relates to Subcommittee Exhibit No. 26 which is the group of four documents that the Chairman had grouped together, and they all were documents filed with the Labor Department on behalf of Local No. 174, and all bearing the name "F. W. Brewster."

Would your answer to the information sought to be elicited be the same as that with respect to the other exhibits that had been shown to him, which were filed with the Labor Department? A. Yes. Now, the signature of the person filing it was Frank W. Brewster, but there were other officers, I believe, that appear as receiving over $5,000 in compensation, and it was some of those officers that we had information on.

Q. Yes, sir. A. So that is understood.

283 Q. Yes, sir.

* * * * * *

Q. Next, Mr. Kennedy, I would like to ask you about Count Number Fourteen, found on page 221. A. Yes.

Q. The precise question is, "I ask you to examine that telegram and state whether you received the original, of which it is a copy."

Now that relates, does it not, to the telegram of January 11, 1957? A. Yes, it does.

Q. Signed by Frank Brewster, Vice President? A. It was sent to Frank Brewster.

Q. Sent to Frank Brewster. A. As one of the vice presidents of the union.

Q. What was the information sought by the Committee to be elicited by asking Mr. Brewster to examine and identify that telegram and state whether he received a copy of it?

THE COURT: Excuse me, Mr. Kennedy, so I can follow you.

284 Do you have the contents of that telegram? It has already been read.

MR. HITZ: I think Mr. Kennedy's answer will give that, your Honor.

THE COURT: That is all right, if his answer will give it.

MR. HITZ: And if it does not, why, we will find it, Mr. Kennedy.

THE WITNESS: Well, so that I understand my position, I would give what we considered that telegram to be.

MR. HITZ: Well, that would be a part of the information sought to be elicited, if you can do it that way.

THE WITNESS: Well, we considered that a telegram from the heirarchy of the teamsters to be a suggestion or request, or an order, for the members of the teamsters union not to cooperate with our committee. The general instructions not to cooperate with it. The two pertinent sections are on page 221.

BY MR. HITZ:

Q. And the record notes that the telegram is reproduced on page 180. Will you turn to page 180 and tell us testimonially whether that is the telegram that the witness was being questioned about? A. Yes, it is.

Q. And you said something about page 211, Mr.-- A. 221.

285 Q. 221? A. Are those sections which we were particularly interested in.

Q. Yes. A. Excerpts; two sections of the telegram.

Q. I think we can pass Count Fifteen as not needing any further explanation.

Next to Count Sixteen, found on page 222, which is this question:

"On the question of these reports that you file, the reports that you file with the Department of Labor, as far as your compensation and allowances, did they concur with the reports that you filed with the Internal Revenue Department?"

A. Could I just go back to the telegram?

Q. Yes; will you? A. I just wanted to point out, I believe the telegram was sent--

MR. PICKENS: I object, your Honor, to the witness volunteering information unless he is asked a question.

MR. HITZ: Had you completed your previous answer, sir?

THE COURT: What was the previous answer, about the telegram?

MR. HITZ: Yes, it was pointing out that the part of the telegram
286 of interest to the Committee was actually set forth at the lower part of page 221.

THE WITNESS: The reason we felt that this was a blanket--

MR. PICKENS: Your Honor.

THE COURT: Just a minute, Mr. Kennedy.

Do you want to make an objection, Mr. Pickens?

MR. PICKENS: I do not think the witness should be allowed to go through this volume and give this information at will. I have let Mr. Hitz lead him along here and ask leading questions and refer to other testimony. I am not trying to make useless objections but I certainly do not think any witness is entitled to volunteer answers, and look through this hearing and, after he has answered the question, come back and express other thoughts. I think this is highly improper and I move it be stricken.

THE COURT: You may be right, Mr. Pickens. It seems to me maybe this is probably the first or second time he has done it.

Now, I would like to know, frankly, all I can find out about this telegram. I might be arriving at a decision on this Count anyway.

I will let him answer.

THE WITNESS. It just came to my attention about the date of the telegram, that his was prior to the time that we held hearings, and that
287 the telegram states that we are on a fishing expedition; that there was nothing specific that we were looking for; and that number one, for instance, says "If summoned to appear, challenge should be made of constitutional and statutory authority of such committee to investigate the activities of labor unions and their officers, and if appropriate to the scope of the subpena;" that there was a general challenge to the investigation without even knowing yet--without us even having had any hearings as of that day.

So it was of particular concern to us, the telegram was, and--

BY MR. HITZ:

Q. Where do we find the date of the telegram, Mr. Kennedy?

A. "The Chair will read to you a telegram sent to you on January 11."

Q. January 11. That would then be five days before the statement by the Chairman of the purpose of the Committee, which was even at that time made an executive session? A. Well, the first time it was made in executive session.

* * * * * *

288 Q. We had moved on to Count Number Sixteen, Mr. Kennedy, which is a question as follows:

"On the question of these reports that you file, the reports that you file with the Department of Labor, as far as your com-
289 pensation and allowances, did they concur with the reports that you filed with the Internal Revenue Department?"

What information was sought to be elicited by that question, sir?

A. Once again, we wanted to find out as much information as we could about these reports that were filed with the Department of Labor. The information that we had was that the reports that were filed with the Department of Labor, under the name of Mr. Frank Brewster, did not concur with the reports that Mr. Brewster had filed with the Internal Revenue Department as his income tax return; so that there were

differences in the two reports that were filed by Mr. Brewster with various branches of the Government.

Q. Now, with respect to Count Number Seventeen, which is to be found on page 222, in the middle, the question being:

"Is there, in fact a discrepancy in local 174 between what you filed with the Department of Labor and your income tax return for 1949?"

What information did you seek to elicit from that question?

A. Well, it was the same answer as the previous question, Mr. Hitz.

Q. This relates to income tax returns. Can you-- A. Well, the
290 Internal Revenue Department is what we had in mind.

Q. Did you mean Mr. Brewster's personal income tax returns?

A. That is correct.

Q. Had they been examined or had information based upon them come to the attention of the Committee prior to the questioning of Mr. Brewster? A. That is correct.

Q. And to the effect that those returns were consistent or inconsistent with the Labor Department revelations of Mr. Brewster?

A. Inconsistent.

Q. Now, Count Eighteen, found on page 222. I don't think that requires any questioning of you, Mr. Kennedy.

Count Nineteen--Well, perhaps I would ask a question about Eighteen.

Count Eighteen is to be found on page 222, and is this question:

"You have heard testimony here this morning that the labor organization to which you belong paid a part of the cost of construction of Dave Beck's home. Do you have any knowledge of that?"

What information was sought to be elicited there? A. It goes back once again to these reports that were filed, that were not filed in
291 the case with the Labor Department. We had learned in this particular instance that there was a check of something over $8,000 that came out of the Western Conference of Teamsters and was used to pay

Mr. Dave Beck's personal bills. We then had some information indicating that part of the repairs on Mr. Dave Beck's home had been made out of union funds, money that was taken out of the union; that the reports that were filed with the Labor Department did not indicate that this money had been taken from these labor organizations. So, therefore, the reports would appear to be inaccurate and we wanted to find out what information we could about that.

Q. Now, with respect to Dave Beck, what information did the Committee have at this time as to where Dave Beck lived? A. Well, he had a home in Seattle.

Q. Was that within or without the area, geographical and jurisdictional area of the Western Conference of Teamsters? A. It was in that area.

Q. And Mr. Brewster's connection with the Western Conference of Teamsters? A. Well, he was President at this time. At the time the money was taken from the Western Conference of Teamsters, to pay for Dave Beck's home, he was Secretary-Treasurer.

292 Q. Now to Count Nineteen, on page 222 at the bottom. If we go up about eight lines, Mr. Kennedy, it appears that you asked this question on the income tax:

"On the report that you filed with the Labor Department is there a discrepancy also in 1951?" and a refusal. Then with respect to 1952, and a refusal; 1953 and a refusal. And Count nineteen relates to 1954, and the question is, "There was a discrepancy in 1954?"

Would your answer to that be the same as to an earlier question, not specifying a date but relating to income taxes and the labor forms? A. Yes, the same as I gave to Counts Sixteen and Seventeen, that obviously there was some inaccuracy somewhere in the reports that were being filed with the Government by this labor union official.

Q. In what years did your information have it that there were discrepancies between the income tax returns of Brewster and the revelations in the Labor Department forms? A. Well, '51, '52, '53 and '54, at least.

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Q. Now going on to Count Twenty, which is found above the middle of 223, the question is asked by the Chairman:

"Under the law, you know, Mr. Brewster, that it is the duty of the officials of the union to report in these financial statements the salary paid any official of the union, and all allowances he gets from the union where the amount exceeds $5,000; do you

293 not?"

The information sought to be elicited from that question, sir? A. That he was familiar with the requirement regarding these financial statements that had to be filed with the Department of Labor, and which we had been discussing in the hearing.

Q. Will you examine the hearings just above that, still on page 223, and state whether or not this question followed up a question or a statement by you with respect to the $8,000 item that was supposed to have been used to pay personal expenses or personal bills of Mr. Beck? Was this a question following your statement on that subject? A. Yes, that is correct.

* * * * * *

THE WITNESS: May I ask a question, your Honor?

THE COURT: Yes, I will let you ask one.

THE WITNESS: I just didn't know whether if I think of something, can I go on in between an answer?

294 THE COURT: Well, if you think of something, Mr. Kennedy, that you think is important or might clarify your previous answer.

THE WITNESS: But, you see, he asked me about the $8,000 on that, and about the previous question, and I didn't realize he was going to ask me, and then, looking over the answer I gave, then I thought that this was pertinent to it. Now, again I am not familiar with the Court procedure.

THE COURT: I understand.

THE WITNESS: That is why I offered that.

* * * * * *

295 Q. Now, did you have an answer you wanted to clear up or the one

that you had not made yet? A. Well, you asked me about the previous question that I had asked, that preceded the Chairman's question--

Q. Concerning the $8,000 item? A. Yes, and I was giving the basis of why we asked that, the $8,000 item and these other funds: that these monies had been taken from union funds and used to pay the personal bills of Mr. Beck both for his house and his own personal bills, and we could not find them accounted for in the reports that were filed with the Labor Department; and then the Chairman then asked "Under the law, you know, Mr. Brewster, that these monies are supposed to be accounted for in the reports that were filed with the Labor Department?"

That is why I wanted to make sure it was understood.

296 Q. Now, might I show you, so that we can get it in the record, Exhibit Number 7 for the Government, which is the 1953 registration form with the Labor Department of the Joint Council of Teamsters No. 28, in which the three officers appearing thereon and concerning whom compensation is allegedly revealed are Dave Beck, F. W. Brewster, and B. I. Bowen.

As to the compensation for that year, from that organization, Mr. Dave Beck received what? A. None.

Q. According to that.

And looking at Government 8, which is the 1952 registration form with the Labor Department of Joint Council No. 28, the officers mentioned are Dave Beck, F. W. Brewster, and B. I. Bowen, and there the compensation received from the union by Mr. Beck is stated to be what? A. None.

Q. The next question has become Count Twenty-one. It is the question of the Chairman in the middle of page 223, and is as follows:

"Then if you or members, high officials, in your union, are reporting falsely with respect to the salaries they receive, and the allowances that they get above and in excess of $5,000, would you not regard that as a fraud upon the Government, and also a fraud against the men that you profess to represent as

297 their officials in the labor organization?"

What information was sought to be elicited by asking that question, Mr. Kennedy? A. Well, it appeared to us that this was a fraud upon the Government. These reports had been filed and were not accurate, and we wanted to find out from Mr. Brewster what explanation he had. And, of course, also under the law they had to file--copies of these financial reports had to be distributed amongst members of the union, and whether the fact that these financial reports were inaccurate, whether that--it appeared to us again that that was also a fraud against the men that you profess to represent, as officials in their labor organization, and we wanted to find out Mr. Brewster's explanation for that.

Q. Count Twenty-two, to be found at the bottom of page 223.

A. Yes.

Q. I don't think we need to ask a question about that. That is clear enough.

Count Twenty-three, to be found on page 224. I think we can pass that as not requiring questioning.

Count Twenty-four, on page 224, the same.

Count Twenty-five--Well, I am sorry, I think I had better go back to Counts Twenty-two, Twenty-three, and Twenty-four. Count Twenty-two related to union funds for an automobile for Mr. Brewster, Twenty-

298 three for operation and maintenance of horse stables, and Twenty-four for improvements to horse vans and private cars, all out of union funds.

Did or did not the Committee have information to your knowledge as to such use of union funds at the time of the questioning here? A. We did, and sought to determine whether--Well, then we also had information that these uses of union funds were not reported on the financial statements that were filed with the Department of Labor.

Q. Count Twenty-five, found above the middle of page 224, is this question:

> "Is it true, Mr. Brewster, that between the years 1943 and 1950 you received at least $30,000 in addition to your salary from local 174?"

What information did the Committee have to your knowledge concerning the receipt of $30,000 in those seven years from Local 174?

A. Would you tell me where that is in the hearing?

Q. It is a little above the middle of page 224, "Senator McCarthy. Is is true, Mr. Brewster"-- A. I am sorry, I don't know what the basis of Senator McCarthy's question was.

THE COURT: Let me interrupt you a minute.

MR. HITZ: Yes, sir.

299 THE COURT: Mr. Kennedy, as I understand it, Mr. Brewster was served with two subpoenas, I believe, which called for the production of certain memoranda, documents, canceled checks, et cetera, for the years 1951 to--what was it, 1955? A. Yes, 1950 to 1955, I believe.

THE COURT: At least, the subpoenas didn't go back of 1951, did they? A. That is right.

THE COURT: Thinking about this question, here is a question that is asked by Senator McCarthy dating back to the year 1943 to 1950.

Now, did you have any evidence of any registration statements that had been filed for a period between those years 1943 to 1950? A. That is why I answered Mr. Hitz' question the way that I did. I do not know at this time--perhaps in going through the records, I could determine, but I do not know at this time the basis for Senator McCarthy's question.

THE COURT: Let me ask you this question, now, then:

Having in mind this particular question upon which Count Twenty-five is predicated, were there any questions asked of the defendant which required an answer for a period of time that antedated or went back before 1951? Just as a matter of information. A. I do not recollect that there were any, your Honor. I don't recollect that there were any other

300 than this one.

BY MR. HITZ:

Q. You don't know what information Senator McCarthy had with respect to the years prior to 1950, with respect to receipt by Mr. Brewster of funds over and above salary; is that your recollection now? A. I do not at this time.

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MR. HITZ: We will pass from that, your Honor, and at the time of summation we will give your Honor our view on that, that, under the circumstances, earlier years upon which there may not have been any information could nevertheless be the subject of questioning, to find out if it were true, which is the question.

BY MR. HITZ:

Q. Next is Count Twenty-six, to be found on page 224, near the bottom, the question being:

"Do you think the honest laboring man is entitled to know where all the money he pays into the coffers goes, and how it is used?"

Would your answer as to the information sought to be elicited by that question be the same as to other questions and in the light of the information of the Committee, that there must be divulgence of the same material to the membership as is divulged to the Labor Department?

301 A. That is correct.

Q. Count Twenty-seven, to be found at the top of page 225, this question was asked:

"Mr. Brewster, and I believe I asked you this question before, would you be willing now to tell what committee or what grand jury or what body you would go before and answer questions about the handling of union money?"

What information was sought to be obtained in answer to that question, sir? A. The Committee felt that they were entitled to this information. Mr. Brewster was not willing, obviously, to cooperate. The Committee felt that it should have the information, Congress should have the information, and they sought to find out or learn from Mr. Brewster to whom he would give this information.

MR. HITZ: I think we can pass Counts Twenty-eight and Twenty-nine, your Honor. I feel that they are sufficiently covered by the record here, and the subpoenas.

BY MR. HITZ:

Q. Count Thirty, at the bottom of page 228, the Chairman asked

this question:

"The Chair orders and directs you to state whether you have any other reasons at this time for failing and refusing to answer these questions."

302 What information was sought to be obtained by the Committee in answer to that question, sir? A. The Committee felt that receiving this information was going to be helpful in what they were attempting to do, and Mr. Brewster had not cooperated with the Committee, and the Committee wanted to give him every opportunity to state whether there was any reason other than that that he had stated, which to the Committee at that time was unresponsive, or whether there was any other reason that he would not give the information to the Committee.

MR. HITZ: As to Count Thirty-one, near the top of page 229, I think that has been covered, your Honor.

No further questions.

THE COURT: Mr. Pickens.

CROSS-EXAMINATION

BY MR. PICKENS:

Q. I refer you, Mr. Kennedy, to page 196 in this letter to Mr. Kenneth C. McGuiness. You were familiar with the fact, were you not, that as to Joint Councils in the Western Conference of Teamsters, that the Department of Labor and the National Labor Relations Board had taken the position that these organizations did not or were not required to file affidavits pursuant to Sections 9 (f), (g) and (h) of the Taft-Hartley Act?

Were you aware of that? A. To the contrary.

303 Q. Well, tell me what you were aware of. A. Well, I was aware of the fact that they didn't really know much about what organizations should file. I think that was one of the major problems that was developed in the testimony before the Committee.

I think that particularly since the Highland Park decision, which held that intermediate organizations, that it was the intent of Congress that intermediate organizations and labor unions should file, that the

16 Labor Department had followed the Highland decision that these organizations, these joint councils and the Western Conference of Teamsters probably should have filed, and I think, based on the testimony of Mr. Leedom, it was at best confusing as to what the position of the Labor Department and NLRB was.

That was one of the matters that we attempted or were trying to develop, because it showed that the Government was inefficient or uneconomical in knowing what their own policy was in this field.

Q. Now, the Highland Park decision concerned only the international; isn't that correct? A. No. I think in the Highland Park decision there is a statement in there that it was the intent of Congress that intermediate--that the intent of Congress was that all intermediate labor organizations should file.

304 Q. But the specific question before the Court was to whether or not the international had filed. A. I think I have that quote, if I could look at it. It might be well.

Q. I am just asking for your recollection. A. Well, I think it was on the international, and I think that the Court specifically stated that all intermediate organizations should file; that that was the intent of Congress and that is what concerned us about the fact that the joint councils had not filed, and the Western Conference of Teamsters had not filed.

Q. But did the Labor Department inform you that they had attempted to make the Western Conference of Teamsters, for example, file these reports and then that that conference had refused? A. No, not that I know of. No.

Q. And how about the National Labor Relations Board? A. No. I think that they were rather unfamiliar with exactly what the position was of the Western Conference of Teamsters. They really didn't know much about it until we started our investigation, and I believe that you will see from the testimony of Mr. Leedom that they assured the Committee that they would then look into the matter and see if they hadn't been derelict in their duty in having the Western Conference of

305 Teamsters file; and, in fact, it was pointed out to them that the Southern Conference of Teamsters filed and that the Western Conference of Teamsters was taking an active part in the labor field and perhaps should have filed also. I think that was well developed with Mr. Leedom's testimony.

Q. You also recall Senator Ives' remark, do you not, that it was a very confused field? A. Yes.

Q. And that he wasn't sure what organizations in the intermediate level were? A. And I think that is why our Committee, the Committee on Government Operations looking into the efficiency and economy of the Government, felt it so necessary to go into this matter, because, as you state, it was a confused field.

Q. You were familiar with the fact, were you, that in the Virginia Electric Power case the National Labor Relations Board had held that even the internationals were not required to file? A. No, I would have to read that. Do you have that?

Q. No, I don't have it with me, but that was the issue in the Highland Park case, was it not?

Had not the Board taken the position in the Highland Park case, also, that the internationals were not required to file these statements?

306 A. If you will give me a minute, I can read the quote that--and you can make your point.

Q. No, I am just asking for your recollection. A. Well, I will go through it again; that the international was to file, and the intermediate organizations were to file also, and that was the intent of Congress.

Q. I am asking you what the position of the National Labor Relations Board was, if you recall. A. Well, I will agree with you that it was confusing. They didn't know.

Q. Well, they had taken the position, had they not, that the internationals were not required to file? A. Well that, I think, was our problem and what we were concerned about, that they had not, the internationals; is that what you state?

Q. Well, all the international organizations, like the International

Teamsters--I don't recall, I think that was one of the clothing unions, like the International Ladies Garment Workers--that the top organization of internationals was not required to file? A. And what is the question?

Q. Was that not the position of the National Labor Relations Board at that time, up until the Highland Park decision, that the internationals were not required to file any of these financial or non-Communist affi-

307 davits? A. Yes, I think very possibly it was, prior to the Highland Park decision.

Q. You are familiar with Exhibit 23, are you not?

Do you know what I am referring to? A. Yes. If it is a detailed question, I would like to have it in front of me.

Q. Yes. When was the first time that you saw that exhibit? A. Sometime in January, I suspect; I don't know. I had some conferences with the Labor Department officials and when I personally first saw it, I wouldn't know exactly.

Q. You think it was in January of '57? A. I think it was probably in early January of '57.

Q. What officials of the Labor Department did you have these conferences with? A. With Mr. Leedom, for one, and there was three or four others that I met with and I do not have their names now.

Q. When you say Leedom, you mean the Chairman of the National Labor Relations Board? A. Yes.

Q. Did you have any conferences with Mr. Mitchell or Mr. Stuart Rothman? A. Yes, I did have a conference with Mr. Mitchell.

Q. Did you confer with Mr. Rothman too? A. I suspect I did.

308 Q. Do you recall when you first heard from Mr. Mitchell? A. No, but I am sure I have it in my diary. I am not sure, but I think it is probably the end of December; but I am not certain of that.

Q. I am not trying to-- A. No, I know.

Q. --dispute you. When you say December, you mean December of '56? A. Yes.

Q. Did you confer with anyone at the National Labor Relations Board other than Judge Leedom? A. Yes. I said that there were a

number of other people that I conferred with, and of course members of the staff of the subcommittee were conferring all during this period of time, but, as for me personally, I conferred I believe at the end of December, and January, and Mr. Leedom was one of those I conferred with, and other individuals that were handling this matter, and I do not have their names at this present time.

Q. Well, I notice Mr. McGuiness testified. Was he one that you conferred with too? A. Well, I am not--

Q. Did you confer with the Solicitor of the Board, Mr. Constantine?

309 A. I do not know.

Q. How about the Chief Assistant to Judge Leedom, Mr. George Powell? A. I do not know.

Q. Did you confer with him? A. I don't know.

Q. You don't remember whether you did or not? A. No. I remembered that I conferred with Mr. Leedom. Mr. Leedom brought me in to meet with four or five of his assistants that were handling this matter. I conferred with them for a short period of time. I was with two members of the staff, and I left them there, and they had further conferences and followed it up. They had had conferences prior to that time. I am not very good on names.

Q. Of members of your own staff, who from your own staff had conferred with Judge Leedom or others in the National Labor Relations Board? A. Mr. Adlerman had; possibly Mr. Tierney, I am not sure. I believe Mr. Adlerman--

Q. Did Mr. Bellino confer with any of them to your knowledge? A. Well, from the beginning of--from the middle of 1956 this was being handled chiefly by Mr. Adlerman, who was the attorney. Mr. Bellino was an accountant. Now, whether he was over there during this period

310 of time, again I do not remember. Mr. Adlerman and I handled this aspect of the case for us and would probably have the best information.

Q. Who, other than Mr. Adlerman, was handling this, or at least this aspect of this investigation? A. I would think that he was one

that was chiefly responsible.

Q. You don't recall if there was anyone else? A. Well, if you have somebody else in mind, I will be glad to recall. Everybody was interested in it, but he was handling it chiefly and I would think that probably we had a staff of ten or twelve men at that time and that we were all interested in it, so I would think, if you want to get all those who had some information or knowledge of it, then it would have to be a member of the staff of the Subcommittee on Investigations.

Q. No, I thought you said that there were one or two of your staff that were with you when you went down there. A. I believe Mr. Adlerman was one, and I said that I thought that Mr. Tierney was present, but I am not certain, when I went down there in January. Again, I am not sure of that, and it might have been--I do not know.

Q. Now, did you ever contact Mr. Barnes and Mr. Winkle of the Internal Revenue Service? A. Yes, I did.

311 Q. And when did you first contact Mr. Barnes? A. I believe in January.

Q. Of this year? A. Yes.

Q. Do you recall the approximate date? A. No, I--Well, I think it was around the same period of time. I think it was early January, but I am not certain of that. That, again, was arranged by Mr. Adlerman.

Q. Did you also contact Mr. Winkle? A. Yes.

Q. When did you first contact him; do you recall? A. Didn't you just ask me if I contacted Mr. Winkle?

Q. I thought I asked you for Mr. Barnes first. Maybe I misspoke. A. Well, Mr. Barnes and Mr. Winkle, I suspect, at the same time.

Q. You just talked with them once or did you talk with them more than once? A. Well, I talked to them once, I believe down-- No, I think they came to my office and I talked to them with Senator McClellan one time. It is possible I talked to them another time, but I think it is twice, probably.

Q. Now, what is it--is it Form 990 that labor unions are required to file with the Bureau of Internal Revenue? A. I believe.

312 Q. When you talked to Mr. Barnes and Mr. Winkle, would you tell us the subject of your conversation, in substance? I don't expect you to remember it in detail. A. The subject was whether the basis--the fact that labor unions were tax exempt organizations, that if we developed information that these tax exempt organizations were using their funds for the personal benefit of certain labor union officials, whether the Internal Revenue Department would consider revoking the tax exempt status of those unions.

Q. And what was their reply to you? A. They seemed interested. They said that as we went along, if we developed such information, that they would be very interested in it, and we suggested at that time that it might improve the economy and efficiency of the executive branch of the Government if they did take action in this field.

Q. Did Mr. Bellino talk to Mr. Barnes and Mr. Winkle? A. I don't think so.

Q. Had anyone talked to them prior to the time that you had talked to them? A. I think again Mr. Adlerman.

Q. Do you know when he talked to them? A. No, I do not.

313 Q. Did you talk to them specifically about the teamsters union specifically? A. That I am not sure.

Q. Did you talk to them about Dave Beck or Frank Brewster? A. I don't think so, but we might have. I don't know.

Q. When you talked to Secretary Mitchell and Solicitor Rothman, did you talk with them about the teamsters union? A. I think the teamsters union was mentioned, but I don't think that that--that was not the main topic of conversation.

Q. Mentioned by whom? A. Either one of us. We were talking about labor organizations.

Q. I mean mentioned by you or by the officials of the Department of Labor? A. Well, I don't remember. We were talking about labor unions and I suppose that teamsters came in--No, I know that the teamsters came into the discussion. Now, how they got into the conversation I do not remember.

Q. When was this investigation of labor racketeering first undertaken by the Permanent Subcommittee? By investigation I mean when did
314 it start obtaining data and information? A. I suppose back in March of 1956.

Q. Did you hold any executive hearings prior to January 1, 1957? A. Yes.

Q. And when were those hearings held? A. We held them, I believe--you may have to correct me, but I believe that it was in March or April of 1956. We had about a dozen witnesses.

Q. Was Mr. James V. Elkins one of the witnesses? A. No, he was not.

Q. Did you ever hold any executive hearings at which Mr. Elkins testified? A. Yes, we did.

Q. When did you hold those hearings? A. In January of 1957.

Q. Well, what--specifically what date? A. Well, I believe it is the 16th, 17th and 18th. I am not sure. I know that you have a subpoena out for those records, and I don't believe that they cover the correct dates, but we are getting--I think it is a couple of days after your subpoena.

Q. The hearings that were printed, that you have been testifying from, I believe started on the 16th of January. Were these executive sessions at which Mr. Elkins, Mr. Turner, and others testified, prior
315 to the 16th? A. I think we can check by the fact that just before Mr. Brewster testified, the Chairman made a statement about warning people against interfering with witnesses we had in executive sessions. Remember that?

Q. I recall that statement. A. So I think it was the day before that, whatever date that was.

Q. Those hearings have never been printed, have they? A. No, they have not; executive sessions.

Q. Although the other hearings in the executive session on the 16th and 17th and 18th have been printed? A. That is correct.

Q. At which Mr. Brewster and Mr. LaPoma and other teamster

officials testified? A. Yes.

Q. Is it your plan to print the hearings at which Mr. Elkins testified? A. No.

Q. In these hearings at which Mr. Elkins testified, did he testify concerning any reported activities of Frank Brewster? A. Yes, he did. I might say that he testified as he did in open sessions, and that touched
316 on the activities of Mr. Frank Brewster. He told about Mr. Brewster's alleged statement to him.

Q. Was there some reason that these hearings have not been printed, or released to the public? A. Yes.

Q. Do you mind stating that reason? A. Well, because the individuals testified in open session before the Select Committee, and there was no need to make the hearings public.

Q. These other officials also testified in open session after they testified in executive session, did they not? A. Well, do you want me to go through an explanation of why we had them in executive session in the first place, Mr. Elkins and the rest?

Q. No, I am just-- A. I will give you the whole history of it. It might clarify your mind.

Q. No, I just want to know the reason why. A. I think that will get to the reason why we didn't follow it up. If you want it, I will be glad to give it to you, if you are interested.

Q. Well, you have given your reason, that the fact they testified in open session. Is that the only reason? A. Well, do you want to--
317 what is the question again?

Q. Is that the only reason that they haven't been published? A. Yes, I would think that the expense of it is the important reason. If we have these printed up now, it is an expense to the Committee which does not exist if you have matters that are taken automatically in open session. I think it is 30 to 35 cents a page, and these people then testify before the Select Committee, and it was not felt necessary.

Q. There was no reason of privilege or secrecy, then, why they haven't been printed? A. I don't think there is. You mean in these

hearings?

Q. That is correct. A. I don't think that there is in particular. There is none that I know of.

Q. Now, whose decision specifically was it to investigate labor racketeering? A. I don't know what you mean by--you mean the Senate Subcommittee on Investigations?

Q. The Subcommittee, yes. A. Well, we got into this field, in the procurement investigation that we were conducting back in '55 and '56, and we got automatically into this in our investigation in New York
318 City. This was a continuation that brought us into the hearings in January of 1957, but there were certain aspects or certain things, matters, that turned up which we did not feel we had jurisdiction in.

Q. I see. A. And those matters we did not pursue. They have been pursued since, by the Select Committee, but there were certain matters that we felt that we could pursue and one of them we did, in January of 1957, when we called Mr. Brewster.

So, it was not a brand new decision that was made. It was just a continuation of an investigation that we had started back in '55, that we had gotten into the middle of 1956 when we had Albert Anastasia down before the Committee, when we had Johnny Dio and Tommy Dio, and Sammy Berger, of I. L. G. W. U., and that was all matters at that time, that we got into, and this was a continuation of that.

Q. But at some point along the road there you left government procurement and started investigating labor racketeering? A. We just followed into it.

Q. Whose decision was it to start looking into or preparing the ground work that Mr. Adlerman was doing, and that you were doing? Was that a subcommittee decision, or was that a decision of the Chairman? A. You mean that we go forward beyond the matters that we were
319 looking into and make this preliminary study? I will have to get clarified exactly what you mean.

Q. All right, let me ask you this way:

Whose decision was it, for example, to start looking into this

Form 990, for example, that the teamsters and other unions were required to file with the Internal Revenue Service? A. I suspect as an investigative technique that we would look into every matter that we found. I don't know who made the specific decision on it.

Q. Well, did anyone direct you to undertake that? A. No, I don't think so.

Q. Did you direct Mr. Adlerman to have these talks or contacts that he had with the Labor Department and with the National Labor Relations Board? A. Well, he did them under my direction. The Chairman of the Committee was kept informed as to that.

Q. Well, that is what I want to know. Did the Chairman of the Committee instruct you to go into it? A. It was not a matter of instruction. We just proceed, and he was kept informed and advised.

Q. In other words, did you start investigating this first, and, after you found certain facts, then you report to the Chairman what you found; is that the way it started? A. Well, now, are you talking about specifically Form 990, or what?

320 Q. I am talking about 990 and these-- A. Now, I can't tell you how we happened to find Form 990. For the life of me, I couldn't tell you that.

Q. Well, I am just using that as an example as to why you started talking with the Internal Revenue Service. A. Well, do you want me to tell you that?

Q. Yes. A. We had a conversation back in May or June, and I guess June and July, with Mr. Clark Mullenhoff, a newspaper man, and he was interested in making a study, and had been making a study of these matters for a period of two or three years, and we were talking about some of the information that he had been developing, and he at that time said "Well, you probably can get a good deal of information with the forms that they file at the Labor Department, and the Treasury Department." We thought that was a very good idea, so we discussed that back in June and July, of 1956, and with that it was understood that we would look these matters up.

Now that, I suppose, is the origin, if there is any origin of it, of looking up Form 990. I suspect that is probably fairly close to it.

Q. Who is he with at, at that time? A. He is with the Des Moines Tribune. Cowles publications. He is a newspaperman who is well versed in this field.

Q. When did Mr. Sellinger become interested in this? A. I
321 don't know the exact date. February, I would think, sometime.

Q. Do you keep a diary, Mr. Kennedy? I think you referred to one a few moments ago. A. My secretary does, of telephone calls that I receive and make.

Q. If you referred to your diary, could you tell about the approximate date that you started looking into labor racketeering? A. No. I will be glad to help you with the--I think I told you what we did, that we had some further conversations during the summer, and we had some information when we were in New York City, and we were looking into that, and we looked into some of the activities on the West Coast in November and December, and we had a hearing in January. I don't think that anything I could give you would tell you more definite than that. If there was any particular point that you are trying to find out, I will try to help you.

Q. You mentioned the West Coast. When did that first come to your attention? A. Well, I would think sometime between July and October.

Q. I think you said that the West Coast came to your attention in November. A. No, I said that we started in with our investigation
322 or interviewing witnesses out there.

Q. Did you go to the West Coast? A. Yes, I did.

Q. And when did you go to the West Coast, do you remember? A. Well, I was there in November.

Q. The earliest date. A. Around November 10, I believe.

Q. And how long were you out there? A. Well, I was there until November around, I think, the day before Thanksgiving, and I came back East, and then I went out again around November 27 or 28, and I

stayed out there until I saw Mr. Brewster on December 15, I believe.

Q. When did you first go to Seattle? A. I went to Seattle in, I think, around November 27th.

Q. Who instructed you and sent you to the West Coast. A. Who--what was the question again?

Q. Who sent you to the West Coast? A. I suppose--

Q. The Chairman of the Committee? A. The Chairman of the Committee.

Q. You say you suppose. A. I mean the Chairman of the Com-
323 mittee.

Q. Do you know now? I mean, is that your recollection that he sent you? A. Yes. Just on the word "sent," he didn't say "Go to the West Coast." We discussed the matter and decided that I would go to the West Coast.

Q. And when was that? A. Well, we were out there for hearings, early November, on a different matter, and--

Q. What matter was that? A. That was a matter dealing with Mr. Murray Chotner, and at that time we stayed and looked into some of these other matters.

Q. Was the Chairman out there at that time? A. Yes, he was.

Q. And what part of November did you say this was? A. Well, as I said earlier, I think around November 10.

Q. And was that the time the decision was made that you were to investigate the situation on the West Coast? A. Well, we were looking into the matters. I don't think it was selected as an area of the country. We were looking into these matters generally, and we were out in California, so we were looking into the matters in California while we were there.

324 Q. Did Mr. Chotner suggest looking into these matters? A. What was the question?

(The pending question was read by the Reporter.) A. My relationship with Mr. Chotner was not such that he was suggesting anything, and he did not.

Q. Well, could you give us the substance of your discussion with the Chairman at this time when you were on the West Coast, about investigating the West Coast? A. Well, we had this situation that we had developed or were interested in in New York City. We understood that it had spread, or that there were similar situations in other sections of the country.

Q. I don't mean to interrupt you, but when you say a situation in New York City, are you talking about paper locals? A. Well, it was mostly, I suppose, with racketeers in labor unions which had an effect on the procurement service of the Government, the purchasing of uniforms and that type of business; and we had seen what had happened there, what had arisen in our procurement investigation, so when we were out in Los Angeles, and after discussions with the Chairman in this vein, we decided to stay out there and confer with the authorities in Los Angeles to see what the situation was there.

Q. Did you confer with the authorities in Los Angeles? A. Yes,
325 I did.

Q. And after you talked with the authorities in Los Angeles, did you go to Portland? A. No, I did not.

Q. When was the first time you went to Portland? A. When I came back, I believe, around November 26 or 27.

Q. Before you went to Seattle? A. Yes.

Q. I believe, in answer to a direct question from Mr. Hitz the other day, you stated that--and correct me if I am wrong--that one of the early reasons that you considered going into the field of labor racketeering was because of the testimony of--I don't remember the gentleman's name. Was it Berger? A. Sam Berger.

Q. Sam Berger. What union was he with? A. Local 102, I. L. G. W. U.

Q. That is International Ladies Garment Workers.

Have you pursued any investigation into that union? A. Yes.

Q. And when was that undertaken? A. Well, it was started back in April or May of 1956.

Q. Was that in executive session? A. We had Mr. Berger down
326 in executive session.

Q. Have you had Mr. Berger in open session? A. No, we have not.

Q. Have you had any open session on the Ladies Garment Workers Union? A. No, we have not.

Q. In connection with labor racketeering? A. No.

Q. Why did you pursue the teamsters union rather than the Ladies Garment Workers Union? A. Well, we expect to pursue the matter in New York City--Mr. Sam Berger, of the I. L. G. W. U., and certain other matters, in a very short time. It has been postponed a number of times because of the fact of the trial of Mr. Johnny Dio and the acid throwing. Johnny Dio and Sam Berger are very close, and as is Johnny Dio to certain other figures that we are looking into in New York, so we have had to postpone that hearing that we expected to have several months ago, and we hope to get into it in July of this year. That is why we haven't gotten into it.

MR. PICKENS: When is it your pleasure to adjourn, your Honor?

THE COURT: I was going to sit until 4:30, but, if you gentlemen would like to adjourn now, it is all right with me.

MR. PICKENS: No, I just wondered.

327 BY MR. PICKENS:

Q. Other than the hearings we talked about, that is the hearings that have been printed on January 16, 17, 18 and 19, 1957, and the hearings that we referred to in executive sessions that have not been printed, what other hearings have you held, I will say during the year 1956, in connection with labor racketeering?

Now, I am not restricting that to open hearings. Open or executive hearings. A. Well, following the time that we had Berger down, and we had Johnny Dio and Tommy Dio, at that time the District Attorney--or shortly afterward, after the acid was thrown in the man's eyes, and District Attorney Hogan had one of his chief suspects, Mr. Johnny Dio, and he felt that our investigation that was continuing up there might

hamper their investigation, so he asked us if we could wait until they had finished their study which was, of course, of far greater importance. This we did, and then Mr. Dio was indicted, I believe, in June or July, or maybe May or June of 1956 by the Federal Grand Jury, and we had further conversations with Mr. Hogan at that time, and he said that we could go ahead.

Immediately following that Congress adjourned and we didn't have any hearings of any kind on any matter up until the time, I believe, of November when we had Mr. Chotner, and then we had no hearings until we had the hearings involving Mr. Brewster, et cetera, in January of
328 1957.

Q. Is it your testimony that Mr. Elkins and Mr. Turner--and I don't recall the other newspaperman-- A. Mr. Lambert.

Q. Thank you. A. There were a number of other witnesses too. Mr. Plotkin testified.

Q. Mr. who? A. Plotkin. Leo Plotkin. And Mr. Stanley Earle. I think we had five witnesses.

Q. That was all the witnesses that you had? A. No, we had one other woman who testified, a Mrs. Taylor, who had started to testify in public session and then the arrangements were made for her to appear in executive session. She is tied up with one of these New York locals, and arrangements were made for her to appear in executive session, and I think those are the only other witnesses then.

Since that time we have had some witnesses from New York and some witnesses from Ohio, in executive session. I think that is it. We have had several days of hearings.

Oh, and then we had hearings up in New York City involving the Operating Engineers and several other matters.

Q. When were they held? A. They were held about six weeks ago, I guess. Six or seven weeks ago.

329 Q. These witnesses from Ohio, were they before or after the hearings in January? A. They were after the hearings in January.

Q. But you haven't had any other hearings, or have you had

other hearings other than the ones that we have talked about since, we will say, January 1, 1956, down to January 16, 1957? A. Well, we had a lot of hearings in January, February and March and April of 1956.

Q. I mean concerning labor racketeering. A. Well, we had them on procurement. We had the Kravitz's, Joey Abrams. I don't know, we had a lot of hearings.

Q. You hadn't looked into the labor racketeering field at that point, though? A. Well, we were getting into it at that point.

Q. You mean the witnesses were getting into it? A. Well, we were getting information dealing with the subject, this subject matter, because it was closely tied up with the procurement of uniforms.

Q. How was it tied up? A. We had information that these uni- that were--that the Kravitzis and the Abrams, and several others, had purchased and sold some 7-million dollars of bonds in fictitious names. They had to stipulate in the contracts--when they received contracts for the making of uniforms, they had to stipulate where the uniforms

330 were being made. We received information that they would stipulate a certain factory, one of their own factories, for the place for the uniforms to be made, and then they would make arrangements to send the uniforms or cloth to a non-union shop in New Jersey; that these non-union shops were in certain cases being operated by labor union officials and there was protection being given by certain so-called hoodlum elements in New York City; that mixed up in this was Local 102 of the I. L. G. W. U., which is the trucking local of the International Lady Garment Workers Union.

We learned that they were paying for this work in these bonds that were purchased in fictitious names, so we got into it in that manner, as to how these unions or how these non-union shops were being operated in Pennsylvania and New Jersey, how the goods were coming from New York City over into Pennsylvania and New Jersey, and how they would get there, and particularly if the truckers were union, why, they would ship to non-union shops.

That is how we got into it originally, and we understood that

Mr. Dio and Anastasia, and the rest of them, might have some information on it for us.

* * * * * *

MR. PICKENS: May it please the Court, your Honor, I don't know whether the copies of three subpenas I mentioned Friday are contained in your Honor's file or not.

THE COURT: I don't. Do you have them?

THE DEPUTY CLERK: I only have one that was returned to the file, your Honor.

THE COURT: I have a copy here directed to Miss Margaret Duckett, Acting Chief Clerk, Subcommittee on Investigation of Government Operations. It was served personally.

MR. PICKENS: I have copies of the other two. The other two were to Mr. Walter L. Reynolds, Chief Clerk to the Committee on Government Operations. One was dated the fourth and the other dated the sixth.

I might say, your Honor, while we were in recess on Thursday Mr. Hitz and I met that Thursday afternoon in an attempt to work out something on these lines. He has agreed to furnish me certain of these documents. However, there are certain other documents that he couldn't agree to, apparently because of the position of the Committee that these other documents should not be made public or at least given to the counsel for the defendant in this case.

* * * * * *

MR. PICKENS: The other item, if your Honor will notice the subpena served on Mrs. Margaret Duckett, the Acting Chief Clerk of the Subcommittee at this time, we asked for the transcript of the testimony of witnesses James B. Elkins, Witness Turner, and the Witness Lambert, and others, and I believe last Friday Mr. Kennedy indicated that they also took the testimony of Commissioner Earl at that same time.

Now this testimony was taken in executive session, your Honor. Mr. Kennedy was not sure, but I believe it is some date around

January 18, at which time we issued the subpena we thought it was taken prior to January 16th. But apparently it is around January 18th.

Now all of these people--Mr. Kennedy stated, I believe, in his testimony, that they testified substantially as they did later before the Senate Select Committee, and if that is so, I believe I told your Honor I had counted the number of times that these witnesses had mentioned the name of Frank Brewster or had referred to activities purportedly engaged in by Frank Brewster and they had mentioned his name well over a hundred times.

We seek the transcripts of these witnesses because it goes to the issue of what the question under inquiry was.

Mr. Kennedy stated at many points in his testimony that there was labor racketeering, and at other points he stated that it was the filing of these forms under Section 9 (f) and (g) of the Taft-Hartley Act and Form 990 of the Bureau of Internal Revenue.

339 To us, the testimony of these people is vital and we think very pertinent and material and relevant to ascertaining what the committee actually did have, what the question was under inquiry. And if these people were asked questions and testified concerning labor racketeering, which they did before the Select Committee, and so far as we know they were never called back into executive session between January 18th or whatever the date was, and February 26th, when the hearings opened on this new resolution 74 before the Senate Select Committee.

* * * * * *

340 MR. PICKENS: But I do ask your Honor for an order compelling the production of the testimony of these witnesses around January 18th, to wit, James B. Elkins, the notorious gambler and underworld king in Portland, Oregon; the testimony of Wallace Turner, I believe, who is a reporter on one of the Oregon papers; the testimony of Witness Turner who is, likewise a reporter on one of the Oregon papers; and the testimony of Commissioner Earl, who in his testimony before the Senate Select Committee testified about what I think he called attempts by the Teamsters on the Western Coast to take over law enforcement or at

least to interfere with the same in the City of Portland.

Now there may be one or two other witnesses that Mr. Kennedy didn't mention that testified about Teamster activities in Los Angeles,
341 Portland or Seattle, and if there are we would like their testimony.

THE COURT: As I understand your motion before the Court this morning, you request the Court to order the government to furnish to you copies of the testimony, which I imagine was given in executive session by certain witnesses. I think you named James B. Elkins, Wallace Turner, and some others.

Let me ask a question before I rule on this matter. Does the Government propose to call these people as witnesses in this case?

MR. HITZ: We do not.

THE COURT: It is my interpretation from reading the Jencks case, that the Jencks case does not apply to the situation you outlined in Court, for this reason: If you request the Court to permit you to look at a statement of a witness who has previously testified--I am referring now to Mr. Kennedy--if that witness has made prior statements, which might divulge to counsel for the defense that he has made a statement which is inconsistent with the statement he has made in the case during the trial, then under the Jencks case you may be permitted, I think to see that statement.

I do not think that the Jencks case holds. Counsel in any criminal case is entitled as a matter of right to look at statements allegedly
342 made by other witnesses to an investigating committee who will not be called as witnesses in the trial. I think that is as far as the Jencks case goes. That is my interpretation of the case. I may be wrong. But as I read that case--I have read it a few times, at least--I think that is as far as that case goes.

Now citing from the language of the Supreme Court, page 11, it says:

> "This Court held in Goldman versus United States, 316 U.S. 129, 132, that the trial judge had discretion to deny inspection when the witness does not use his notes or memoranda

relating to his testimony in court. We now hold that the petitioner was entitled to an order directing the government to produce for inspection all reports of Matusow and Ford in its possession, written and, when orally made, as recorded by the F. B. I., touching the events and activities as to which they testified at the trial. We hold, further, that the petitioner is entitled to inspect the reports to decide whether to use them in his defense. Because only the defense is adequately equipped to determine the effective use for the purpose of discrediting the government's witness and thereby furthering the accused's defense, the defense
343 must initially be entitled to see them to determine what use may be made of them. Justice requires no less."

I think that under the holding of the Jencks case I must deny your motion.

MR. PICKENS: May I say one thing further?

THE COURT: Yes.

MR. PICKENS: I believe on the first day of trial, admitted into evidence Government's exhibit 6, which is the government printing office print of the testimony of the people that appeared on January 16, in closed session, and on January 17 in closed session, and part of January 18, and January 19 I believe in open session.

Now what the government has done here in deciding what to print, they have picked only the testimony of those witnesses, I presume, which they have asked questions about the violation or nonenforcement of regulations in the labor union field.

We say that the chairman stated, in his opening statement, that one of the purposes of this investigation was labor racketeering. But curiously enough the testimony of the witnesses that were called and testified about labor racketeering is left out of this government print. And so this government exhibit 6 is very much of a certainly out of balance, and we think unfair, because the testimony of these witnesses will show that the committee on January 18 was going into labor racke-
34 teering, a field in which we contend they had absolutely no

jurisdiction or authority.

Now I elicited answers from Mr. Kennedy on Friday, last, that there was no reason, according to him, as to why the testimony of Elkins, Lambert, and Earl, was not printed in government's exhibit 6.

He said there was no reason of secrecy. There was no reason of privilege. He put it solely on the ground of expense of printing it.

So I submit to your Honor where he claims there is no privilege, where he claims there is no secrecy, and where it is only a matter of expense, and where this goes to one of the most crucial issues in this case, I ask your Honor to consider that. Because here you have allowed into evidence testimony of Mr. Mitchell, Judge Leedom, of certain officials of the Internal Revenue service, to support the government's contention that they were concerned only with the filing of these forms under Taft-Hartley and with the Internal Revenue; and you are excluding evidence which is just as material, which shows that they are going into a field far removed and far beyond that, and that is the whole meat of our argument on the authority and jurisdiction of this committee.

THE COURT: I made my ruling. Do you want to say anything?

345 MR. HITZ: Yes, your Honor.

I want to make certain that--

THE COURT: Let me ask the government, first, do you object to turning over the statements of these witnesses who have been mentioned in the subpena?

MR. HITZ: I would like to be able to ask Mr. Pickens a question, if your Honor would permit me, before I make my position known.

THE COURT: Very well.

MR. HITZ: It is my understanding of the Jencks case that it is following the general rule that only material in the hands of the government is compellable to be produced on behalf of the defendant, if it is evidentiary. That is apparently the case.

Up until the time of the Jencks decision, the rule as to what is evidentiary with respect to witnesses was that a witness called on the stand could be cross-examined upon material which was contradictory

to his testimony, and that to that extent it was evidentiary and therefore admissible and therefore compellable.

The general rule which tests the availability of such material in the hands of the government seems to remain the same. That is, it must be evidentiary, and that is, all the Jencks case did was to say that any statement made, even though not contradictory, is prima facie (evidentiary) to the point that it must be produced for inspection by the
346 defendant. That seems to be the extent of the Jencks case.

That seems, however, to leave untouched the situation of where there may be other reasons for the admissibility of the testimony in the hands of the government.

Our objection to producing the testimony of these other persons who testified in executive session, Elkins and others, as a part of these racketeering hearings, is one partly based on principle, and unless it is material we don't think it is compellable to be inspected.

However, if Mr. Pickens can assert some reason of admissibility to make these matters evidentiary, we would not care to resist production in the case of the Jencks case, because we think the Jencks case is a very narrow decision. It is broad in the depth to which it goes, to the field, but the field is a narrow field.

Now if Mr. Pickens, as understood correctly by me, the reason of the production of these documents, as he asserts, to make these documents evidentiary in the case of the defendant, is to attempt to show that the committee in some fashion unbalanced the perspective of the entire proceedings of these hearings by printing only the testimony of some witnesses and not printing the testimony of other witnesses, even though the committee heard those witnesses it did not produce or
347 did not print in executive session--and may have had good reason not to print them--he intends to weigh the amount of printed material, public material, such as the testimony of Mr. Brewster, against that which has not been printed, and evidently to try to show there is more weight in the testimony of those not printed--if that is the purpose in Mr. Pickens' demand of inspection of these documents, I think it lacks

substance, and that it is not evidentiary material that he seeks for the reason that it would not be relevant upon any issue in this case.

Now if I understand Mr. Pickens correctly, we do refuse to produce and object to the production of them because they are not evidentiary as being irrelevant.

Now if Mr. Pickens can state some other reason that would make them evidentiary for the defendant, we would not resist the inspection of them. Therefore, I am asking Mr. Pickens to state his reason that he advances that these are evidentiary to or for the defendant.

MR. PICKENS: Your Honor, perhaps I have not made myself clear.

We say that this testimony of these witnesses is admission against interest, in that the questions that the committee went into on January 18, with these witnesses, was gangsterism, that it involved hoodlums, they tried to connect the Western Conference of Teamsters up with the pinball industry, they tried to show that it--well, to obtain information and to show that the Teamsters on the West Coast were trying to take over law enforcement in Portland, Oregon.

They tried to show many other things which has absolutely no relevance to what the government's contention is, that the purpose of the investigation was, and the Chairman's statement dovetails perfectly with some of the statements of these witnesses.

And the testimony of the witnesses now before the court show only, or don't show--we don't think it shows at all-anyway, there are a lot of questions of these forms by the labor union to conform with the Taft-Hartley. There are a lot about these Forms 990. We say that is boot straps. That was an afterthought.

After the committee's jurisdiction was challenged, they went around and tried to surround the committee with an aroma of authority, and we say if you look at the questions asked these other witnesses, it will be very clear to your Honor, I believe, that they are away beyond that in the field of labor racketeering, in a field in which I don't think anyone thought they had any authority or jurisdiction.

Your Honor, it is admissible on the ground that the questions propounded to these witnesses at the very same time they were propounding them to Secretary of Labor Mitchell and Judge Leedom, were questions that is a pure admission against interest of what the government
349 now contends was the authority and jurisdiction of the committee, and irrelevant and immaterial.

I don't see that there is any law of evidence that would say that they could or should be excluded.

I offer to prove by the testimony of these witnesses that when they were under examination that the committee was asking them questions purporting solely to the Western Conference of Teamsters, and Mr. Brewster was purportedly trying to take over law enforcement in Portland, Oregon.

They tried to connect Mr. Brewster with vice.

I think it completely failed. But on its face I think it it shows something other than the government's contention at this hearing, and I think they do dovetail with earlier statements made by Chairman McClellan on the Floor of the Senate.

I can't think of any testimony more vital to the defense than the testimony of these four witnesses.

THE COURT: Do you want to say anything else?

MR. HITZ: He hasn't convinced me of materiality and relevancy.

THE COURT: As I look at this Jencks case, it hasn't changed the law in the way it was formerly administered, for this reason: In the past, before the Jencks decision, as I understand the Supreme Court cases-and I just cited one, I think it was the Goldman case--before a
350 defense attorney would have a right to the access of a statement allegedly made by a witness who was then testifying on the stand in a criminal case, he had to make a showing that a prior statement of the witness had made either a written statement or oral statement to superiors which was inconsistent with the statement he was making on the stand.

Now apparently the Supreme Court felt that that would work a

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hardship on the defense, and then the Supreme Court said in the Jencks case, when a witness is testifying or after he has testified, counsel for the defendant shall have the right to inspection and view any prior statements that that witness has made outside of court for the purpose of determining whether or not they have any evidentiary value; whether or not he made a prior inconsistent statement; and thereby you could lay the foundation to impeach that witness while he was on the stand, while you were cross-examining that witness.

In my opinion, and I may be wrong, because this Jencks case will be discussed from coast to coast as to its interpretation and many others. In my opinion that is as far as the Jencks case goes. It does not permit the defense to go and obtain all of the statements that were allegedly made by various witnesses in executive session, or to the F.B.I., that may not have had anything to do with the particular matter

351 under inquiry.

Now if I am wrong, you will have to correct the Court. I think that is as far as the Jencks case goes. And if you can show that Mr. Kennedy has made prior written statements, or made statements inconsistent with his testimony on the stand, then if you show that, at the proper time I may consider that.

But I don't think I can permit the defense to ascertain what these various witnesses have said, in view of the statement of the government that those witnesses will not be called to testify in this trial. If they had testified, if they had taken the stand, I don't think I would have any problem.

MR. PICKENS: It is not the testimony, it is not the answers that Mr. Turner, Elkins, and Lambert gave. It is the questions propounded by Mr. Kennedy himself, and it is in a different field from the questions he said he was looking into. It is not the testimony of the witnesses themselves; it is the questions propounded by Mr. Kennedy, the Chairman of the Committee, and other members of the Committee, which we say will be completely inconsistent with what Mr. Kennedy's testimony is and what the Government's testimony is in this case.

I am not relying solely on the Jencks case.

* * * * * *

353 I don't care what these witnesses testified to. What I am interested in is the questions propounded to Mr. Kennedy, and I will show your Honor they are completely contradictory to Mr. Kennedy's--

THE COURT: I would permit you to do that providing you were cross-examining the witness Elkins and others whom you referred to, to obtain their statements and say they contradicted that witness on the stand.

Now I am going to interpret the decision the way I feel it should be interpreted. As I say, I may be wrong about it. That is the reason we have a Court of Appeals.

I don't think that the Jencks case means that you can go as far as you would like to go in this case.

MR. PICKENS: I want Your Honor to understand our position, because I feel very strong about it. Of course, I will abide by your Honor's ruling. But I want it clearly understood that the reason we want the transcripts of these witnesses is for the questions that were asked of Mr. Kennedy and other members of the committee, which would show what they were trying to elicit, which would show what the question under inquiry was.

I don't care what the particular answers were that these witnesses gave.

I would prove to your Honor that the questions he asked there are
354 completely contradictory and inconsistent with what he says the purpose of the inquiry was and the matters he was looking into.

Just as long as the record is clear on that point, your Honor.

THE COURT: Very well. We have the record.

Do you want to make a statement?

MR. HITZ: Your Honor, I had a conference with Mr. Pickens some days ago, and we took up equally (separately) each item in question in the Duckett subpena. Item one has to do with the minutes of meetings of executive session of Permanent Subcommittee on

Investigations of the Government Operations Committee between May 1, 1956 and January 16, 1957.

At that time I was informed that there had been no reduction to minutes of the only meeting of this subcommittee in executive session, between May 1 and January of (16) 1957.

There has since that time been completed the minutes of that executive meeting. That meeting took place on January 10, 1957. I have called it a meeting, and Mr. Pickens subpenaed minutes of meetings.

I might say we are being rather liberal in our construction of this matter, because that was a conference as distinguished from a meeting of the subcommittee, and it was made plain at that time by Senator McClellan, who presided, that since the subcommittee had not yet come into being for this session and didn't by appointment of its members until

355 January 14, which is one of our government's exhibits, that any purported meeting of the subcommittee consisting of unappointed persons, you might say, from the full committee, would be in the nature of a conference rather than in the nature of a meeting.

Be that as it may--and it is a rather technical thing--we do have minutes now of January 10, which would be under item one.

I told Mr. Pickens there were no such minutes, and that is the reason he didn't urge compliance with number one. I don't want Mr. Pickens to be under that idea, because he may want to urge upon your Honor compliance with item number 1.

Do you?

MR. PICKENS: That is correct; I do.

MR. HITZ: We will have those minutes later today.

THE COURT: You are talking about the minutes of the subcommittee on Permanent Investigations of Government Operations?

MR. HITZ: That is right.

THE COURT: Do you say you will have those minutes later today?

MR. HITZ: I will have them today for the January 10 date.

THE COURT: All right.

MR. HITZ: Now the second item I think begins on the second

356 line--the very end--where it says: "And complete transcripts of testimony."

I gather that is the second item, and that is the item we have had the discussion of. The government has resisted production because it was not relevant to the case and, therefore, not evidentiary and not compellable, and your Honor has ruled with the Government.

MR. PICKENS: I have the wrong date here. It says January 16th. I understand from Mr. Kennedy's testimony and in view of what he said there, that actually these people testified on January 18th, rather than the 16th.

THE COURT: I thought it was the 18th. I may be wrong.

MR. HITZ: Do you want to amend January 16th to cover January 18th in this subpena?

MR. PICKENS: That is correct.

So I wish to amend the subpena to the Court. Your Honor understood that?

MR. HITZ: Our position is the same with respect to that.

Now the third item that seems to be embraced in this subpena is a little below the middle, after a semicolon, where it says "concerning the purpose of the hearings held in executive session between May 1, 1956 and January (16), 1957, in which other witnesses testified about Brewster," and so forth.

357 Do you wish to amend that to January 18th instead of the 16th, Mr. Pickens?

MR. PICKENS: Yes.

MR. HITZ: The minutes of the January 10th session or conference as I have described it, as to item one, would probably be appraised in this item number three of the subpena. It is possible that Mr. Pickens could justify the production by the government of that material as being part of the legislative history by way of explanation of the authority of this subcommittee, and therefore possibly to make it relevant and therefore evidentiary and therefore compellable.

If that is Mr. Pickens' purpose, we would be happy to produce

those papers for that.

THE COURT: What is the date? What would be the date that you would be willing to produce, I mean?

MR. HITZ: The January 10 conference meeting, which is the same material as in compliance (with) number one.

THE COURT: Very well.

MR. HITZ: The last and fourth item which I understand starts with the fifth line and continues on with the footnote. It is all data concerned with the purpose of the hearing, considering January dates that Mr. Pickens referred to.

358 It is possible that this same January 10 conference or meeting might be considered to be embraced in that, and out of an abundance of caution we are prepared to meet the same minutes of the same conference or meeting in compliance with that fourth item.

THE COURT: What about other communications and data concerning the purpose of the hearings held in executive session? From 1956 to January 10th, I think, it has been changed, hasn't it?

MR. HITZ: Item three? The third item.

MR. PICKENS: Yes.

MR. HITZ: Well, there is no material that could be described under communications and data, other than the minutes of this January 10 meeting.

THE COURT: That is what I wanted to find out.

MR. HITZ: It isn't that we are suppressing. It is in items 3 and 4, and 1.

THE COURT: Now, is there anything to be taken up in connection with the other subpena, or have you gotten together on that?

MR. PICKENS: Well, I understand Mr. Hitz is going to supply the full minutes of one or two other meetings. He has given me extracts before.

MR. HITZ: Yes, I am going to do that.

Is that all, Mr. Pickens? Are we now ready to continue the

359 cross-examination of Mr. Kennedy?

MR. PICKENS: Yes, sir.

* * * * * *

ROBERT F. KENNEDY,

CROSS-EXAMINATION -- resumed

BY MR. PICKENS:

360 Q. I believe, Mr. Kennedy, you stated on Friday that the testimony of Mr. James B. Elkins in the hearings before the Senate Select Committee was somewhat the same or substantially the same as it was in the executive session held before the Permanent Subcommittee around January 18, 1957? A. Yes, sir.

Q. Did you ask him substantially the same questions when he appeared before the Select Committee that you asked him in executive session before the Permanent Subcommittee? A. Well, I believe the testimony before the Select Committee was more complete. I don't think there is any question about that. The testimony before the Select Committee was far more complete than the testimony before the investigating committee. He only testified, as I remember, about two hours before the investigating subcommittee, and he testified for several days before the Select Committee.

Q. Of course when he was before the Select Committee he was frequently interrupted in his testimony to bring in other witnesses who testified on the subject matter that he had testified to? A. Well, I was thinking that probably all together he testified about two days, maybe two and a half days, which ran over a period of about three weeks, as I remember it.

361 But before the subcommittee he testified for a few hours, only, before the subcommittee on investigations.

Q. What was the subject of his testimony before the Permanent Subcommittee? What questions did you ask him? A. Well, generally, I would think--I would be glad to get down to particulars, but I think generally we were interested in the Portland situation, and generally it was what he testified to before the Senate Select Committee.

Q. Well, did it concern the allegations of the Western Conference

of Teamsters or hoodlums of Frank Brewster, his knowledge and whether they were trying to take over law enforcement in Portland? A. I would think that certainly played a part in it, yes.

Q. Whether they were trying to control the operations of the pinball operation in Portland? A. Yes.

Q. And whether they were connected in one fashion or another with vice in Portland? A. Yes, and whether union funds had been used to promote all of these matters.

Q. Whether they or Mr. Brewster had made contributions, political or otherwise, to District Attorney-- A. I don't remember that being asked. But it is very possible that it was. Generally, I would

362 like to say this, generally we covered the same field in shorter fashion than we covered in the Select Committee, although I don't specifically remember asking Mr. Elkins about the political contributions. But generally we covered the pinball and gambling and all the rest of it, and how union funds--if union funds had played in part any part in it.

Q. Do you recall whether you asked him about--you testified later, I believe, about $10,000 that was supposedly given by Mr. Carroll or someone else to Frank Brewster? A. Yes, I believe we did.

Q. Did you ask him any questions about the filing of forms by labor unions under Section 9 (f) and (g) of the Taft-Hartley Act? A. No, we did not.

Q. Did you ask him anything about filing Form 990 with the Internal Revenue service? A. No.

Q. Or the tax exemption of labor unions? A. No.

Q. I am referring now to Exhibit 23 which is a form for one of the years, I believe, filed under Section 9 (f) and (g), I believe it was Joint Council 28.

I refer to Exhibits 23, 24, and 25 which were forms filed by Joint

363 Council 28 and by Local 174 for a period of years.

Did you obtain all of those forms about the same time? A. Well, that I could not answer. I would think it was about the same time. But I could not answer definitely. If you want to stipulate up to some date, I

could answer that quite definitely.

You see, again, this was handled by Mr. Adlerman. Whether he got them all at one time or whether he got them over a period of time I do not know. I reviewed them myself after they were all gotten together and he advised me on them. But I couldn't tell you definitely what dates they were when we received them.

Q. From what source did he obtain them? A. From the NLRB.

Q. How about from the Department of Labor? A. Well I expect, probably, from the Department of Labor rather than the NLRB. Excuse me.

Q. Do you recall later, or earlier, you obtained some of these forms 990 from some source? Do you mean what I mean when I say form 990? A. Well, I am familiar with it, and if you have it here I would like to look at it.

Q. It is a form that is required by-- A. Tax exempt?

364 Q. --Internal Revenue Service?

Do you recall where you obtained those forms? A. From the Treasury Department.

Q. Do you recall when you obtained them? A. With one exception. I think, I believe some of them were obtained later on, February and March, from the Western Conference of Teamsters.

But I think the ones--at least whatever we referred to during the committee hearings--would be obtained from the Treasury Department, because we hadn't received any books of the Western Conference at that time.

Q. You later obtained an order from the President of the United States, did you not, allowing you to use these forms 990 and these forms filed pursuant to Section 9 (f) and (g) of the Taft-Hartley Act? A. Well, we had always had that, at least since I have been counsel, had permission from the Treasury Department to use or to examine income tax returns.

Q. You mean permission from the President? A. Yes.

Q. Of the United States? A. Yes. It has to be an Executive Order from the President of the United States, and it has to be renewed

either each session of Congress or each year, and we had ours renewed again in, I suppose, January or February of 1957. But we had obtained
365 that permission in prior years. If that is what you are referring to?

Q. Is that permission required also in connection with these forms-- A. I believe it is included, the order from the President includes that.

Q. Well, is it not in Senate Joint Resolution now pending allowing the Secretary of Labor to make these forms filed under Sections 9 (f) and (g) available to the public? A. Yes, I understand that. Of course, that is quite different from tax returns.

Q. Oh yes. I was speaking only of the labor forms.

Are you familiar with the statements of the Chairman McClellan that he made at the opening of the hearings on January 16th and January 19th and 1957? A. I am familiar with them.

Q. Do you agree with the Chairman as to his statement of the purpose and scope of the inquiry and the questions on the inquiry as set forth in those statements? A. Yes, I do.

Q. You don't take any exceptions with it, do you? A. No, I don't.

Q. Now did you say, did you tell me today that you obtained first a form under Section 9 (f) and (g) from the Labor Department? A. Now,
366 again, to go back to this, I can't tell you exactly the date. It is possible that we can go through our files and find out. I would think that the Labor Department and the Treasury Department will have those dates, and I understand that you can get them. But I personally, testifying here, could not tell you the exact dates.

Q. Would it refresh your recollection, had you obtained these prior to the time that you talked to Secretary Mitchell? A. No, it would not.

Q. It would be after you talked to Secretary Mitchell? A. I don't know. I am afraid I don't know. I know I talked to Secretary Mitchell at the beginning of January. But I do not know the exact date

and dates aroung that period of time on which we obtained those forms. I don't know when they were obtained.

Q. Well, in answer to my question a moment ago, didn't you say it was after you talked to Secretary Mitchell? A. No, I said I did not know. Is there a question about that?

Q. No, there is no question about it. I was just trying to refresh your recollection as to when you obtained those. A. I am uncertain as to when they were obtained.

367 I would say it was around that period of time, but I am uncertain.

Q. Well, would you say that you obtained them before January 1, 1957? A. Mr. Pickens, I have told you as best I can, I do not know. There is nothing you can say to me that is going to help me any. I know we had them prior to the hearings but I do not know the exact date that we had them. I can look that up for you and I am sure the government can look it up for you. But there is no sense in pursuing it with me. There is no sense in me trying to guess at the date.

Q. Do you recall whether or not you had them at the time you talked with Mr. Brewster and Mr. Bassett? A. I didn't have them with me. I don't know whether Mr. Adlerman had them or looked at them. I am sure, I would be almost positive that we did not have them at that time. I do not know why we would have them at that time. I will say I am sure that we did not have them on December 15th.

Q. Now you have testified that you talked to Judge Leedom of the National Labor Relations Board. Could you fix the approximate date that you first talked to him? A. No, not any more than we did last time. It was some time early in January, I think.

368 Q. If I told you, with reference to the time you first talked with Secretary Mitchell-- A. No, I think it was afterwards.

Q. --after you talked to Secretary Mitchell? A. I believe it was. If you have the date, I am sure that is correct. I won't question the date.

Q. Now, I believe that you stated on Page 313 of your testimony-- I am just giving this page reference for Mr. Hartz' benefit--that when you

15 talked to the Secretary of Labor and Solicitor, that the Teamsters were not the main topic of conversation? A. That is true.

Q. I ask you if you can tell us what the main topic of conversation was?

MR. HITZ: What is the page reference?

MR. PICKENS: 313.

THE WITNESS: Well, I was there mainly, primarily, to have his advice. We had gotten into a field and uncovered some information, and I wanted to talk to him generally about the labor situation, in connection with the labor unions. I am sure we mentioned the Teamsters and I am sure we mentioned, oh, other labor unions; and he talked generally about some of his experiences.

Q. Have you seen a copy of the stipulation regarding the testimony of Secretary Mitchell which was taken by Mr. Hitz and myself on last

369 Saturday? A. I saw it this morning.

Q. Now, I believe you stated in substance the Permanent Subcommittee undertook its investigation into racketeering, labor racketeering, in March of 1956. Have you thought any more about that over the weekend as to approximately what it was you started, --that was your testimony on Page 313 and 314? A. You didn't ask me anything about it and I have not thought about it.

Q. Well, what is your best recollection? A. My best recollection is the same recollection I had when I testified on Friday. Whenever these people came down and testified--I will tell you this, it was after, or about the period that Joe Abram and the Kravitzes testified before the committee?

Q. Joe Abrams and who? A. The Kravitzes. It is some time within that period. You can pin it down by the date that we had the Dios down who testified before the Committee on executive session. I am sure we can give you that date.

Q. It was after that? A. No, it was during that. We had information prior to that time or we wouldn't have had them down.

Q. Well, prior to this time, prior to January 1, 1957, had you

370 had any executive hearings with regard to investigations into labor racketeering? I mean other than the ones you had with regard to Johnny Dio and three or four people? Was there any between May and January? A. I do not believe so. Again, the material that we went into in executive session in May, I believe, in April or May, was in procurement, and got into this idea of labor racketeering. We went and had witnesses that were clearly just on procurement. So it is tied up that way. We had them after May. But we had them in open session, I believe.

Q. Well, were there witnesses that were purely on labor racketeering? A. That would get into terms. We didn't have any in executive session anyway, I am sure.

Q. Did the Chairman make an opening statement as to the question under inquiry at these executive sessions that were held in May or March or whenever it was when you had Johnny Dio and others? A. No, I am sure he did.

Q. Of your own personal knowledge do you know that he did? A. Well, it is his practice to make a statement as to the matter under investigation to each witness, and I am sure that that practice was followed in this case.

371 Q. Do you recall what he said the purpose was? A. Well, I think generally what I told you earlier, that we had some information, what I told you Friday, we had some information that certain union officials and racketeers were tied up or mixed up in the procurement of uniforms; and that these individuals, the Dios, et cetera, would be called as to what information or knowledge they had on that matter. I would think that is what he covered.

Q. Do you have these opening statements in a separate form? A. No, I don't believe it was--I doubt if he read a statement. I think he just gave what the purpose of the investigation or the purpose of the hearing was. I don't believe he had a written statement; and he gave as the purpose of the hearing what I just stated to you. I say that he did that, although I don't have any immediate recollection, I say that he did that because it was the practice of the committee to do that, and our

52 purpose in calling these people down was what I have stated was the purpose.

Q. In view of your testimony on Friday, I think this Government's Exhibit number 6, which is the Government Printing Office print of the testimony before the Permanent Subcommittee on January 16, 17, 18 and 19, the date on which I think the chairman indicates that the witnesses have testified in executive session and he admonishes some of them that

372 if they are in any way intimidated they should get in touch with the committee, I believe it indicated that at least some of them testified on the 18th that the-- A. I think it must be. I think what we had, as I remember it, we had some testimony in the morning in public, and then we went in the afternoon in executive.

Q. That is what this seems to indicate? A. Yes.

Q. That in the afternoon of the 18th you had a number of witnesses in executive session? A. I think that is when we had it all.

Q. Did Elkins testify at any other executive session other than the one during this period, during the 16, 17 and 18th? A. No, I do not; I do not know.

Q. He testified one day only, as far as you can recall? A. Yes.

Q. And did Senator McClellan preside then? A. Yes, he did.

Q. And did Wally Turner testify at the same time? A. Yes, he did.

Q. The same day? A. Yes.

Q. And how about Lambert and Earl? A. They both testified.

373 Mr. Earl testified a different day, I believe. I think he testified the same day as Mrs. Geraldine Taylor. I believe he followed her testimony, which might have been a day earlier. I believe it was the afternoon earlier Mr. Earl testified.

Q. Now were you present when Mrs. Taylor and Lambert and Earl testified? A. Mr. Elkins, you mean?

Q. No; Mr. Turner. A. Mr. Turner? Mr. Lambert, and who else?

Q. Mr. Earl? A. Yes, I was.

Q. Were they questioned about substantially the same matter that they were questioned about when they appeared before this Select Committee in the end of February or March? A. They were questioned in executive session about substantially the same matters.

Q. And was it mainly the connections between, the purported connections between the Teamster unions on the West Coast and their officials with vice and corruption in Portland? A. I believe so, yes. In a general category that is correct.

Q. Would you state whether or not Mr. Turner and Mr. Lambert
374 and Mr. Earl were asked any questions about forms that labor unions are required to file under Section 9 (f) and (g) of the Taft-Hartley Act? A. No, they were not.

Q. You are positive about that? A. I am positive.

Q. Were they asked any questions concerning the forms that are required to file, Form 990, by labor unions, and other tax exempt organizations, under the Internal Revenue Code? A. No, they were not asked any questions about that. Do you know what their positions are?

Q. Mr. Turner I believe, and Mr. Lambert, were newspapermen, were they not? A. Yes.

Q. With what newspaper? A. With the Portland-Oregonian; and Mr. Earl was a City Commissioner out in Portland. So they weren't asked any questions about those matters.

Q. Now other than this Taylor, I won't ask you anything about Miss Taylor's testimony other than the fact did you ask her any questions about the forms labor unions had filed under Taft-Hartley? A. No.

Q. Or Form 990 of the Internal Revenue Code? A. Well, have
375 you looked at her testimony? She testified in public. It is possible. She was a secretary, and it is possible she might have prepared some of the forms. But I doubt if we went into it in executive. It is possible that we asked her about the form that they might have filed. I don't have any recollection. If she wasn't asked in open session, I am sure she wasn't asked in executive session.

Q. The only reason you took it in executive session is because

she had some fear? A. I appreciate this.

Q. But the subject of her testimony didn't involve these forms? A. I will say this: I doubt if she testified--I am almost positive she didn't testify in executive session about that. Whether she testified in open session about it I do not know. I don't remember.

Q. Now then, other than Turner, Lambert, Earl and Elkins and Taylor, did you have any other witnesses? A. Yes; Leo Plotkin, and he wasn't asked, either.

Q. What is his position? A. Leo Plotkin is a runner, and has other positions in Portland.

Q. When you say a "runner" do you mean a bookmaker? A. Well--

376 Q. Was he involved in the numbers game? A. Yes; and girls.

Q. Now his testimony in substance involved alleged connections between Teamster officials on the West Coast and vice and corruption in Portland? A. Yes.

Q. Was he asked any questions about these forms that were filed by labor unions? A. No, he was not.

Q. Under either the Taft-Hartley or Internal Revenue Code? A. He wasn't asked a question about it.

Q. Did he ever appear and testify in open session? A. Yes, he did.

Q. And then-- A. And then I believe we had Helen Hardy, too.

Q. Was that Big Helen, or Little Helen? A. Little Helen.

Q. Did she testify about trying to connect Teamster officials with vice and corruption in Portland? A. That is correct.

Q. And did substantially all of these witnesses attempt to testify concerning Frank Brewster or activities with which he was allegedly connected? A. Well, I think that it was mostly in connection with Joe

377 McLaughlin and also Tom Maloney, in connection with the Teamster union and the use of Teamster funds. I think I said on Friday that Frank Brewster's connection was in the exchange he had or the alleged exchange he had with Mr. Elkins. Also the fact that Portland was under his domain.

Q. And whether or not these people--you mentioned Maloney and others--whether or not these people were friends of his? A. Yes.

Q. Whether or not these people had any business transactions with Brewster? A. Well, I don't think it was,--I might have been going into it with Elkins, because I think he would be the only one that would have any information of any kind. I doubt if it was gone into with any of the other witnesses. Again, it is the substance of what Mr. Elkins testified in, oh, public session.

Q. All right. Now other than these people that we have got, we have got Dio and Plotkin? A. And Elkins.

Q. Others than those that you have been testifying about, did you have any other witnesses? A. Not that I can remember.

Q. At the opening of these hearings on Thursday, on the afternoon
378 of the 18th, if that was the date on which Turner, Lambert, Earl and these others testified, did the Chairman make any opening statement as to the purpose of the inquiry? A. I don't believe he did.

Q. Is it not his practice to make such a statement? A. Yes, except where a witness has had frequent conferences with the staff and is appearing as a cooperative or relatively friendly witness. He might have said something, Mr. Pickens. But I think it was understood, the circumstances under which they were appearing was completely understood, and it was in a different matter, certainly, than where the witnesses had not had or had not had frequent conferences or conversations with the staff, or where it was going to be in public session, where it was to be known by the general public as to that. This was a different type of matter entirely.

Q. What was it, approximately what was the first time that you ever talked with Mr. James B Elkins? A. I think when I was first in Portland, which I suppose is the end of November.

Q. About the end of November? A. Yes.

Q. And what was the subject of your conversation with him?

379 A. Well, at least a part of what he testified in public session.

Q. Had you contacted him first or did he contact you first? A. I

contacted him.

Q. You contacted him? A. Yes. The first time he wouldn't talk to me. That is the substance of my first conversation, is that I asked him some questions and he wouldn't answer them.

Q. Was that the end of November? A. Yes.

Q. But he subsequently did talk with you? A. Yes, he did.

Q. Was it during the same period that you were out there? A. Yes.

Q. Would it be before the first part of December? A. Well, as I remember, I arrived there around November 27, and I think I stayed there until I went up to Seattle. I believe it was--I went from Washington to Portland, and then I went to Seattle, then back to Portland, then back to Seattle, then to Los Angeles, and then back to Seattle to see Mr. Brewster. That took place between November 27th and December 15th.

Q. When did you first talk to Mr. Lambert and Mr. Turner?

380 A. The same day.

Q. The same time you first approached Mr. Elkins? A. Yes.

Q. When did you talk to Mr. Earl the first time? A. Well, I think possibly it was my second visit there.

Q. Did you talk with Little Helen at the same time then? A. I never talked with her except a couple of days before she did testify. She was in Montana at the time.

Q. How about Mr. Plotkin? A. No. I met Mr. Plotkin in Seattle. He was in the hospital there.

Q. Now I believe that you testified that when you were out in California on the Chotiner investigation, you determined then to talk with someone in Los Angeles about Teamster matters and labor racketeering? A. Not about Teamster matters.

Q. Labor racketeering? A. Yes.

Q. Who did you talk to in Los Angeles? A. Police officials. James Hamilton. I talked with him. I talked with the Chief of Police, Parker. Then I talked with some of their deputies.

Q. What was the substance of your conversation with the Chief

381 of Police, first? A. He said that they would be willing to help us in whatever we were doing out there. I said that I appreciated it.

Q. What were you doing out there? A. We were looking into, to see if there was a similar situation to that that we had found in New York City.

Q. What was the situation you found in New York City? A. We found that in the procurement of uniforms, in our investigation on the procurement of uniforms, we found that there were certain tie-ups between non-union shops and union officials, and tied into this also was the trucking local of the I. L. G. W. U., and that at least it appeared to be, and that the concurrence of this trucking local had to be obtained, at least at that time it appeared to us to be obtained in order to ship these goods to non-union shops in Pennsylvania and New Jersey, and that this group had a close relationship or again appeared to have a close relationship with the underworld in New York City, and we thought this was a matter that was worth pursuing.

Q. Well, did you pursue it further in Los Angeles then? A. Yes, well, we did.

382 Q. At this time did you go into the question of the practices in connection with the collection of garbage in the City of Los Angeles? A. Yes.

Q. Who did you talk to about that other than the ones you have mentioned? A. I talked with some of the police officials, some of those who had been interested in it.

Q. Did you talk with the Mayor? A. No, I did not.

Q. Did you talk to any of these people about filing of these forms under Section 9 (f) and (g) of the Taft-Hartley Act? A. No.

Q. Did you talk to any of these officials about filing of these forms with the Internal Revenue? A. No. I talked with them about matters which I thought they had information on. That is what I tried to do, talk to people about things that they had knowledge about.

Q. What were those matters that you thought they had information about? A. Oh, we wanted to see if there was a situation that was

similar to the situation that we had found in New York City.

Q. You weren't talking to them about purely uniforms, or were you? A. No.

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Q. Was it solely garbage collection? A. No; just a situation where it was similar in type to the situation we had found in New York City.

Q. I believe you announced at some point that you were going to hold hearings? A. We were very interested in the garbage when we were out there, if that is the question. We picked up a lot of information about the matter. I hope we are going into it.

Q. Tell me other than the collection of garbage and that problem, specifically what you talked to these officials about? What did you say to the Chief of Police? What did you tell him you were interested in? A. Well, I expect I described the situation that we found in New York City, and that we were interested in whatever information that he had on this general subject, which would get into labor racketeering.

Q. You talked to him about labor racketeering? A. I am sure.

Q. Did you mention the Teamsters Union? A. That I do not remember. I expect that probably we did. But I do not have anything special or specific on that.

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Q. Did you ask him about the Teamsters Union in Los Angeles? A. No, I don't think so. I don't remember that I did.

Q. Did you talk to him about-- A. Again if you want to find out, or who I talked to about that, I will be glad to tell you. But I don't believe I talked to the Mayor about it--I mean, to the Chief of Police. I think it was more generalities with the Chief of Police, that it was a courtesy call, which I expressed my appreciation for allowing him--or allowing me to talk to his deputies.

Q. You said you would tell me who else you talked to? A. I would think that it was primarily Captain Hamilton. We also talked to the head of the labor detail out there, the Police Department.

Q. What was his name, do you recall?

MR. HITZ: Excuse me, your Honor, this is very interesting,

but it hasn't a thing to do with this case.

I object. It is irrelevant.

THE COURT: I was waiting for counsel to indicate whether he thought this is relevant. Can you tell the Court?

MR. PICKENS: It goes to the scope of inquiry with reference to
385 holding the hearings on January 16, 17, 18, and 19th.

THE COURT: Don't you think he has gone far enough on that?

MR. PICKENS: Well, maybe as far as Los Angeles is concerned. I have one or two other cities.

THE COURT: Well, frankly, I think you have gone far enough on cross-examination.

MR. PICKENS: Well, I would like to ask him one other question, and that is if he talked with any of these officials about connections, purported connections between the Teamsters Union and the underworld in Los Angeles.

MR. HITZ: I object. It goes beyond the scope of this case.

THE COURT: Well, I am going to have to limit this cross-examination some time. I am going to sustain the objection. I think we have gone far enough.

MR. PICKENS: Now, do you mean as far as Los Angeles is concerned?

THE COURT: As far as any City is concerned. You have developed enough for the purpose of this case, anyway, and I think I have got to put a limit or stop this interrogation somewhere.

Now, I believe that this is the time to do it.

MR. PICKENS: I would like to question him a little bit about
386 Portland and a little bit about Seattle. All of these witnesses that testified during these four days, whose testimony, the Court has ruled that I can't look at the questions that he asked them, but most of them were from Portland and most of them testified about labor racketeering in Portland.

Your Honor, that is the very crux of this case, is the authority and jurisdiction of this committee.

THE COURT: Is that the purpose of the cross-examination?

MR. PICKENS: That is the purpose of the cross-examination.

THE COURT: To determine whether this committee had jurisdiction?

MR. PICKENS: That is correct, your Honor, to show what field they were examining in.

THE COURT: All right, I will hear the Government on that.

MR. HITZ: If that is in the nature of offering proof, we object to it as irrelevant.

THE COURT: These are all conversations that Mr. Kennedy is alleged to have had with certain people on the West Coast, right, regarding the investigation of the committee, regarding the investigation the committee was planning or making or about to make, is that correct?

MR. PICKENS: Your Honor, I object, because the question under
387 inquiry and the purpose for which the hearings were held should be restricted to the opening statements of the chairman.

You allowed counsel for the government to ask Mr. Kennedy numerous questions on what the purpose of the investigation was, what the committee knew, all of which or many of which I think were pure hearsay or even double hearsay; and I think that we are entitled to know what the purpose of the investigation was and who he talked to and what they talked about. This all relates to the hearings on these four days.

THE COURT: I did permit the government to go into that, and I will let you go into it so far as propriety goes. I think you have gone far enough and I am going to stop you. So that you may understand my thinking, I want you to limit it to the purpose of this investigation, what the committee was going into, for instance, I mean, as to whether or not Mr. Kennedy was on the West Coast in connection with the Chotiner case, it doesn't seem to me the Chotiner case had anything to do with this investigation.

He may have been investigating some other agency, I don't know. But it seems to me that you want to get your questions to ascertain what they learned out there in connection with this particular investigation

that we are involved in.

388 MR. PICKENS: That is what I am doing, your Honor. I have not asked him any questions about the Chotiner case or investigation. I was just trying to set his mind as to the date when he said he first looked into labor racketeering on the West Coast.

THE COURT: Now you have covered everything up there. Can you move up to Portland now and terminate this cross-examination?

BY MR. PICKENS:

Q. Let me see if I can't shorten it: Is it your testimony-- strike that.

I believe you testified you first talked to Elkins on the same day that you talked to Turner and so forth? A. I believe so, yes.

Q. Then on subsequent days did you have further conversation with Mr. Elkins? A. Yes, I did.

Q. And this was in Portland, Oregon? A. Yes. If I can tell you, I talked with him I suppose on the subsequent day and probably talked to him on two or three days following. I went up to Seattle and then came back to Portland, and I think I saw him a day or two after that.

389 Q. Did you have any further conversations with Mr. Lambert? A. I talked with Mr. Lambert and Mr. Wally Turner I think every day I was in Portland. I talked with Mr. Earl, I think I talked with him there but I am not sure.

Q. All right, now, who else during the time you were in Portland, Oregon--if I am wrong correct me. I believe you said you were there around the 27th of November? A. Shall I give you the dates? I was there three or four days from the 27th of December, approximately three or four days from then. I went up to Seattle and spent two or three days in Seattle.

Q. Would that be around the first of December? A. I will tell you this happened between the 27th of November and the 15th of December when I saw Mr. Brewster in his office. I went up to Seattle and stayed for two or three days. I went back to Portland where I stayed a couple of days. I went back to Seattle where I stayed a couple of more days.

I went down to Los Angeles where I stayed about three or four days. I came back to Seattle where I stayed a couple of days, then I started back east on the 15th or 16th of December.

Every time I was in Portland, I am sure I saw Wally Turner, Lambert, and I saw Mr. Elkins probably each day after the first, whatever else.

Q. Now during this whole period, whenever you were in Portland,
390 who did you talk to other than the people you have mentioned? Did you talk with the Chief of Police and the Mayor? A. No, I talked with the Mayor, and he was a witness before the Select Committee, or furnished an affidavit. Mayor Peterson. Peterson or Patterson. Peterson.

Q. Did you talk with Schrunk? A. No. I talked with him on the telephone from Washington, after the Select Committee was cut up.

Q. Did you talk with anyone other than the Mayor, other than these other people you have mentioned? A. I don't believe so. I don't believe I personally did. I might have.

Q. Was Mr. Bellino with you at that time? A. No, he was not. Mr. Adlerman was there the first time, and then Mr. Adlerman and Calabrese handled the case after that.

Q. And they talked to-- A. Other people.

Q. --other people? A. Yes.

Q. Around Portland? A. Yes.

Q. Around Los Angeles? A. No, we had other people in Los Angeles.

391 Q. What did you talk with the mayor about--labor racketeering? A. No; I talked with the mayor about the conferences and conversations he had had with Clyde Crosby and Tom Maloney. As I say, he furnished an affidavit which was of interest to us and appeared at the Select Committee.

Q. Now who did you talk with in Seattle other than-- A. Well, I talked with some of the police officers in Seattle.

Q. Did you talk with the Chief of Police first? A. I talked with

the mayor in Seattle on one of these visits. I think I talked with the Chief of Police, and I talked to a number of his deputies.

Q. Did you talk with District Attorney Carroll? A. I believe I did.

Q. Do you recall anybody else you talked to? A. No. Oh, I talked to a number of people that came, that had some information that was of interest to us.

Q. What type of information?

MR. HITZ: I object. I think this is going out of--

THE WITNESS: It is the same information.

THE COURT: Well, Mr. Pickens, frankly, I think you have gone far enough, unless you have a purpose in mind now. I will hear you at
392 the bench if you want to approach the bench.

MR. PICKENS: I submit your Honor, that we are entitled to show what the purpose of the investigation was and what the scope of the inquiry was, and what Mr. Kennedy talked about to these people in Portland and Seattle.

THE COURT: I might suggest this, if you keep on asking him what he talked about, you might get some answers you may not like.

MR. PICKENS: I am willing to take that chance.

THE COURT: You are going to open the door up to all sorts of hearsay. If you do that--

MR. PICKENS: Well I submit, your Honor, the reason I have to go into this is because he was allowed to testify a lot on hearsay as to what the purpose of the committee is.

Now if we are restricted to the Chairman's opening statement, and all, that is all right with me. But if the government is going to allow him to testify concerning those matters, I don't see how the defense can be precluded from going into it.

THE COURT: I don't think I have precluded you. I think I have given you wide latitude. I have permitted you to ask all sorts of questions about who he talked to and about what he talked. I don't think I have cut you off at all.

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JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

United States Court of Appeals
For the
District of Columbia Circuit
FILED NOV 29 1957
Joseph W. Stewart
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No. 14,145

FRANK BREWSTER,

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Volume 2 of 2 vols.

Pages 265 to 528

UNITED STATES COURT OF APPEALS

For The District Of Columbia Circuit

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FRANK BREWSTER,

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Appellee.

JOINT APPENDIX

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393 MR. PICKENS: I don't think you have, your Honor. But I am saying Los Angeles, Portland, Oregon, and Seattle are our three crucial places.

THE COURT: You are examining him about conversations he had in Portland?

MR. PICKENS: That is correct.

THE COURT: About whom he talked to in Portland; is that correct?

MR. PICKENS: That is correct.

THE COURT: What other questions do you want to ask?

MR. PICKENS: I want to go into Portland and Seattle, and that is all I am going into on the West Coast.

THE COURT: I will let you proceed within reason.

BY MR. PICKENS:

Q. Now what was the subject of your conversation with the mayor in Seattle? A. I think about the same as the substance of my conversation with the Chief of Police in Los Angeles.

Q. And that was what? A. That I was in the City and I appreciated whatever help he could give, that I had been to see the Police Department and it was nice visiting with them. I think the conversation lasted about ten minutes, about the same length of time as I saw the Chief of Police in Los Angeles.

Q. Now you say you talked with some police officers in Seattle.

394 What did you talk with them about? A. About pinball operation in Seattle. I think mainly I was interested in pinball operation or whatever tie-up Mr. Brewster had with that.

Q. What did you talk-- A. Of course we were interested at that time in some of the individuals whose names had come out in our investigation in Portland.

Q. What did you talk with the District Attorney about? A. Well, I am not sure--

THE COURT: Is this in Portland, or Seattle?

MR. PICKENS: This is in Seattle.

THE WITNESS: Well, I am not sure I saw the District Attorney at that time, Mr. Pickens.

BY MR. PICKENS:

Q. You saw him at one time, didn't you? A. Yes, but I think that was since the Senate Select Comittee was set up. I might have, but I don't think I talked with him out there.

Q. Who else did you talk to in Seattle? A. I talked to a number of informants.

Q. Who were they? A. Well, they are a number of individuals who had some information to give us.

395 Q. Well, what subject were you talking with them about? A. Oh, I would think probably the connection between Mr. Frank Brewster and Mr. Tom Maloney and Joe McLaughlin, and a relationship that had existed for a number of years, alleged.

Then I talked to an informant out there that had some information on Mr. Shefferman.

Q. Who is he? A. He is a Labor Consultant in Chicago.

Q. Was he called before the subcommittee? A. No, he was not.

Q. He was called before the Select Committee, was he not? A. Yes, he was. He was called later on before the Senate Select Committee.

Q. And did you talk with him about his connection with Dave Beck? A. Did I talk to who?

Q. Mr. Shefferman. A. Do you mean when I ultimately talked to Mr. Shefferman?

Q. Excuse me. When you were trying to elicit information on Mr. Shefferman in Seattle, were you talking about his connections, did you find out information in this connection with Mr. Dave Beck?

396 A. We had found, or we had some information that Mr. Shefferman had made some purchases for Mr. Dave Beck amounting to a considerable amount of money, and that unknown funds had been used to pay for these purchases, and when the labor unions filed their forms with the Labor Department that these did not appear on those forms, and

ultimately, as it turned out, that was correct. So that, the forms that the labor union filed were therefore false, and we first came across this when we were up in Seattle and we talked with these different people.

Q. You didn't talk about these forms that were filed? A. We talked with them first, and then we would go to the government for the information they had. Again, we asked people the information we thought they had, or about information we think they have, Mr. Pickens.

Q. Well, do you recall anyone else you talked with in Seattle? A. Well, probably--this is all I can recollect at the present time. Probably there were.

Q. Pinball operations was a large part? A. We were interested in that.

Q. In Seattle? A. Yes, and in connection with Portland.

397 Q. And pinball operations in connection with the Teamsters in the pinball industry, you were interested in that, weren't you? A. Certain Teamster officials.

Q. One of them was Mr. Brewster? A. That is correct.

Q. All right. Can you tell us the names of anyone else that you interviewed prior to the time that you met with Mr. Brewster, I believe on December 15th? A. Well again, to the best of my recollection--

Q. I mean, concerning Mr. Brewster? A. Well, I have given you, to the best of my recollection, we had covered them all. But I don't know. I am sure in each city there is someone I talked to, but I cannot remember right here. But it was on the subject matter we have been discussing. In Los Angeles we were going into different matters as well as the garbage. But I think we covered everything as far as Mr. Brewster is concerned, or to the best of my recollection, anyway.

Q. Now there came a time when you called the office in Seattle and told them you wanted an appointment with Mr. Brewster. A. Yes.

Q. Do you remember who you talked with? A. I later talked with Mr. Bassett.

398 Q. Did you have an interview? A. Yes.

Q. It was on Saturday morning, around eight o'clock? A. Eight

o'clock in the morning.

Q. Who was with you? A. Mr. Bellino.

Q. Was he there during the entire time you talked with Mr. Brewster? A. I believe he was.

Q. Mr. Bassett, was he there? A. Yes, he was.

Q. Now at this conference you asked Mr. Brewster if he knew Mr. Elkins, did you not? A. Yes, I did.

Q. Did you ask him if he knew Tom Maloney? A. I am sure I did. Yes, I did.

Q. Did you ask him about Hy Goldbaum, his connection with Hy Goldbaum, if any? A. I believe I did.

Q. Did you also talk with him about a Mr. McLaughlin? A. Yes.

Q. Did you talk with him about Stan Terry? A. I am sure. Yes, yes, I did.

Q. Now who else did you talk with him about--talk with Mr. Brewster about? A. Mr. Shefferman, and about the money going to
399 Shefferman from union funds.

Q. What was the subject of your conversations with Mr. Brewster about when you talked with Mr. Elkins? A. Well, I think it was whether he knew them, and then ultimately about the time that he had talked with Mr. Elkins in his office.

Q. Was it in purported connections with the underworld in Portland? A. Yes, and I suppose going back to the alleged financing of the Portland underworld or heart of it, with Teamster funds.

Q. What was the substance of the conversations concerning Maloney? A. Again the same thing, I believe, what his relationships had been with Tom Maloney. Tom had gone down to Portland, and according to our information had described himself as a Teamster official, and there was a situation at least as it was developed later on that he would get on the payroll of Teamster and receive Teamster funds.

Q. How about the subject matter concerning McLaughlin?

A. The same thing, his relationship with Joe McLaughlin.

Q. The connection between Teamster officials and the

400 underworld. A. As I have described it in my previous answer.

Q. Pinball industry? A. Yes.

Q. Do you recall anyone else? What about Mr. Shefferman? What was the subject of your conversation? A. Whether Mr. Shefferman was on the payroll of the Teamsters, whether he received any money from the Teamsters, to Mr. Brewster's knowledge, and what reasons he would have for receiving money.

Q. How long did this conference with Mr. Brewster and Mr. Bassett last? A. About an hour, I believe, because I think Mr. Brewster had a conference at nine.

Q. When you closed the conference, you told Mr. Brewster he hadn't been telling you the truth? A. That is correct.

Q. You based this on your prior conversations with others? A. Well, with Elkins, others, and documents that we had.

Q. Did you serve Mr. Brewster with a subpena at that time? A. Two of them.

Q. And they are the two that have been referred to in Government's Exhibit 6? A. That is right.

401 Q. Did you at the opening of this conversation with Mr. Brewster at any time, did you tell him the purpose of why you wanted to see him or what you wanted to talk about? A. I don't recollect.

Q. Whether you did or not? A. No.

Q. Do you remember whether or not you told him the purpose of the hearings for which you issued the subpena? A. Not that I recollect.

Q. After you saw Mr. Brewster did you go back and talk with Elkins? A. No, I came back east.

Q. You didn't talk to anyone else after you talked with Mr. Brewster and Mr. Bassett? I believe you talked with Mr. LaPoma and others? A. Do you mean did I talk to anyone in Seattle that day?

Q. That is right. A. Oh, I think I did, I talked with somebody about--I think I had a conference with somebody about Callahan who was in jail, the sheriff; I didn't talk with Mr. Elkins. I believe I had a

conference in my room that afternoon, because I don't think we left
402 until about eleven o'clock that night, and I am sure we saw someone.

Q. Do you remember what the subject of your conference was? A. No, I believe it was on the advisability of going out to try to see Callahan who had been a partner, as I remember it, with Mr. Beck. To see if he could furnish any information.

Q. Now this subpena I believe was returnable--these records were returnable a couple of days after Christmas? A. Yes, December 27, as I recollect.

Q. Had you scheduled a hearing for December 27th? A. Yes, we had planned to have a hearing.

Q. It was scheduled? A. Well, no. We canceled I think within three or four days after I got back to New York, or Washington.

Q. Did you ever hold any hearings between December 27 and June 16th? A. I don't believe so.

Q. Now while you were in Mr. Brewster's office did you also refer to Nugent LaPoma? A. Yes, I did.

Q. Do you recall anything else that you and Mr. Brewster talked about? A. I think that covers it.

403 Q. Did you talk with Mr. Bassett at that time? A. I talked with Mr. Bassett I should think six or eight times while I was out on the West Coast.

Q. Did you talk with him in Mr. Brewster's presence, did you? A. Yes.

Q. Did Mr. Bassett and Mr. Brewster indicate whether they would comply with this subpena and furnish the records? A. Well, I think that was the question. We stated that we would be willing rather than have Mr. Brewster come all the way to the East, to look at the records there under their supervision, at their own offices, if they would turn them over.

Mr. Bassett said he would consult and think about it, and consult with whoever it was he wanted to consult with, and let us know, and I

said that is fine. He called that afternoon, as I remember it, and said that they had decided that they would only appear before the committee, that they wouldn't turn those documents over to us there, and that was the end of it.

Q. You did make a demand that you be allowed to look at all of the records? A. When you say "demand" we have certainly no legal right
404 to look at the records. We said we would like to look at them there, and we felt that it was an advantage to Mr. Brewster, if he was going to cooperate, it would be an advantage to him because he wouldn't have to come all the way to the East Coast.

As you know, that was the arrangement that was subsequently made with the Senate Select Committee. But at that time he wouldn't make that arrangement.

Q. Well, you were demanding that they open their records to you right there? A. When you use the word "demand," all we are asking for is permission. They don't have to do it. No one has to do it. We can't make a demand for it. We can make a request and then point out the advantages to them. They didn't think the advantages overweighed the disadvantages so they decided to come East.

Q. Didn't Mr. Bassett and Mr. Brewster tell you that there were no employees there on Saturday and they were about to have a policy committee meeting? A. That is right.

Q. And you made some remark, such as, "Well, you have some keys to the files, you can open them up and let us go through them right now"? A. I am sure; something like that.

Q. You did request that they produce the records right there?
405 A. I think I have described what we did. I said it is an advantage to have them here, an advantage to us, I would like to go through the records.

He said, "There is nobody here on Saturday." I said, "Would it be possible to get someone in, I would like to look at them today and tomorrow." He said it is possible, as I remember it, but he said they would take the matter up.

Then he called me in the afternoon and said they had decided they wouldn't let us look at the records.

Q. Now prior to the time you interviewed Mr. Brewster, had you talked with Hy Goldbaum? A. No, I had not.

Q. Had you talked with Terry? A. No, I had not. We had an investigation or talk to Hy Goldbaum and I think it was prior to the time that I talked to Mr. Brewster. But I hadn't talked to him myself.

Q. You had information that someone else had obtained from Hy Goldbaum information? A. Yes, I believe it was before I talked with Mr. Brewster.

Q. And had you talked with Maloney or McLaughlin or anyone else? A. I have not been able to find any of them.

Q. Did you talk with Langley, and Crosby? A. No. I talked
406 with Mr. Crosby.

Q. Have you had staff investigators talk with Langley? A. No.

Q. Or McLaughlin? A. No.

Q. Or Maloney? A. Oh, let's see, I talked with Joe McLaughlin.

Q. Prior to the time you talked with Mr. Brewster? A. Well, I would expect that it was. Unless it was that afternoon. I think that probably it was before I talked with Mr. Brewster.

Q. Have you seen a copy--I believe--of the record, you saw what Einar Mohn purportedly sent to the vice-president of Teamsters International? A. Yes.

Q. Where did you get your copy? A. From the Western Union.

Q. From what office? Here in Washington? A. I believe so.

Q. Did they have authority to give you that? A. We subpenaed it.

Q. Did you have a presidential order for that? A. No, Western Union is not under presidential order. We subpenaed the telegram.

407 Q. After Mr. Brewster testified before the Select Committee, did you go back to Seattle and talk to the mayor? A. Yes.

Q. His name was Clinton? A. Yes.

Q. Did you talk to the prosecuting attorney of the County,

Mr. Carroll? A. Yes.

Q. Did you talk with the presiding judge out there? A. Not at that time. I have talked with him since. Listen now, you are talking about after I became counsel for the Senate Select committee?

Q. Yes. A. And I have not been associated with the other investigating committee for six weeks? Now you are asking if I talked with these other people, that is in March of this year.

Q. No; in early April.

THE COURT: Let me ask a question. You are talking now about something that occurred in April, right? And this occurred allegedly after Mr. Brewster testified. How would that be material as to whether or not the committee had certain information for the purpose of conducting this investigation?

408 In other words, suppose Mr. Kennedy did go back to Seattle after Mr. Brewster testified, the hearing had been held. Now you contend that the reason--as I understand your contention--the reason Mr. Brewster didn't answer certain questions in January of this year was because he felt that the committee had no authority and power to ask him these questions; right?

MR. PICKENS: That is correct.

THE COURT: Then he testified before the Select Committee, I think, in February or January of this year. Now you are inquiring about something that Mr. Kennedy did after those hearings sometime in April of this year. I can't see how that is material.

MR. PICKENS: Well, your Honor, I am going to show that Mr. Kennedy went out to the West Coast and particularly Kings County and tried to have Mr. Brewster indicted. This goes to bias and prejudice on the part of this witness.

THE COURT: How do you mean "tried to have him indicted"? He went and talked to someone about Mr. Brewster in Seattle?

MR. PICKENS: That is correct. He talked to the prosecuting attorney.

THE COURT: Is that the purpose of this line of inquiry?

MR. PICKENS: That is the purpose of this line of inquiry, yes.

409 THE COURT: Let me hear from the Government.

MR. HITZ: I don't object to that.

THE COURT: I just wanted to know as a matter of information. If the Government doesn't object, let's have it, and find out what happened.

BY MR. PICKENS:

Q. Will you tell us the substance of your conversation with the prosecuting attorney of Kings County, Mr. Carroll? A. In the first place he called me. I didn't go to see him. I was out there--I was out on a different matter, looking into Mr. Dave Beck. Mr. Brewster had testified before the committee and there was no immediate expectation of me calling him. We have an office out there or had an office out there, and I was out seeing people from National Mortgage Company, and I saw maybe a dozen people while I was there, a lot of people that had nothing to do with Mr. Frank Brewster.

I was down at my office and he called and asked me to come up and see him, which I did. He said they were considering calling a grand jury, and I said fine. I said that. Then he wanted to know if I thought there was enough in our hearings about it being an indictable crime. I said that was a matter for them to decide, and I thought if they went into

410 this matter that it was going to be a hard, difficult struggle, in any of these matters, that we had uncovered some leads and we couldn't spend any more time in Seattle. But that if it was felt by the District Judge and other people out there that they should do so, but we shouldn't feel that we had done the whole story for them and we were finished

I said I thought it was a mistake to get into a fight or get into this type of thing and not be prepared to follow through.

Q. Did you talk to the mayor also? A. Yes, the same subject. I reiterated the fact, you know, that I don't think these matters are easy matters, and that if they were going into this type of investigation they should be prepared to do it thoroughly.

Q. Did you recommend against the indictment of Mr. Brewster? A. I don't believe we ever discussed it. Mr. Brewster's name came up

and Mr. Beck's name. But as to whether Mr. Brewster was going to be indicted or not indicted, I don't believe they asked my opinion. I don't know anything about the Washington law. How could I pass on it?

Q. During the Senate Committee, I believe you had the statute on larceny-- A. And I merely asked Mr. Brewster to comment.

411 Q. Did you call the mayor or did he call you? A. The mayor called me.

Q. And requested that you come down to his office? A. Well, I don't think it was like that. I don't remember exactly how it happened. He called and said if I was free maybe I would drop by, and I said I would be glad to drop by.

Q. Had you called Mr. Carroll's office prior to the time that Mr. Carroll called you? A. Do you mean when I was out there?

Q. That is correct. A. No.

Q. Did you call the mayor's office prior to the time he called you? A. No.

Q. You talked to some members of the bar association on the same subject, didn't you? A. No.

Q. Some officers of the Bar Association? A. No. Who?

Q. Did you talk to the presiding judge? A. No. I told you that already.

Q. Did Mr. Bellino talk to any of these gentlemen?

THE COURT: That is, if he knows?

THE WITNESS: Well, I believe that after I left he talked to some

412 of those people, or talked with somebody from the District Attorney's office. He might have talked with the judge. I do not know.

Q. How about Mr. Adlerman? A. Mr. Adlerman did not.

Q. Well, isn't it true that you were called into Senator McClellan's office shortly thereafter by a complaint that you had been out there trying to have these people indicted and appear before the committee?

Do you work in Senator McClellan's office? A. No.

Q. Didn't he ask you if you had? A. No.

Q. At no time did you go into his office and ask that question in

Seattle? A. No. I don't think I have ever discussed or even seen the District Attorney, to tell you the truth, or the mayor. But it is possible I did.

Q. Back in July of 1956 were you aware of the fact that Senator Ives had introduced a resolution to investigate labor racketeering?

THE COURT: Excuse me. Well, have we not gone into this before?

MR. PICKENS: Not to my knowledge. I mentioned it, I believe, in the opening statement.

413 THE COURT: I read some mention about that. I had forgotten whether or not you went into it.

BY MR. PICKENS:

Q. Did you ever in July or between July and November, did you ever discuss this matter with Senator Ives? A. No, I did not.

Q. Did you ever discuss it with any counsel of the committee or public welfare? A. No.

Q. I believe you said that when you first determined to have these discussions in Los Angeles, did you discuss with Senator McClellan the fact that you wanted to go to Portland and also Seattle with this investigation? A. Yes.

Q. You told him that before you went to Portland and Seattle? A. Yes.

Q. Would you tell us what you discussed with him? A. We discussed what we had uncovered in New York, and what we understood to be the situation in Portland.

We discussed the question of the jurisdiction of the Committee. He said obviously some of these matters would be beyond the jurisdiction of the committee. I said I was aware of this. I said there had been some discussion that if it is--and we were in Government Operations--

414 that obviously we would have jurisdiction over it. But obviously this country needed this matter looked into, and that we could come up with the material and then if it was decided that we got into matters beyond our jurisdiction, then we could ask for better authority when

Congress met in January.

But there was no need to wait until January to find out, and there were obviously some things that would be within the jurisdiction of the committee. We discussed that, and then we went to Portland.

Q. As a result of that investigation you decided to look into the whole area of labor racketeering? A. We uncovered enough in New York City, Los Angeles, some in San Francisco, Minneapolis and Chicago, that it was worth while looking into. That was the report I made to the committee when I got back in January.

That is the reason the Chairman asked additional authority to go into this whole question, because he said although in this field there are some things that we have jurisdiction over and there are some matters that we don't, or at least there is a question of jurisdiction raised later on, we were asking for additional authority.

* * * * * *

415 Q. Mr. Kennedy, if you know, who drafted the opening statement that Senator McClellan read at the beginning of the hearing on January 16 and 19, 1957? A. Well, I suspect that probably I drafted an outline of a statement, and the final statement that was given was his own.

Q. I think I asked you, but out of the abundance of caution, did these hearings that you held in New York, all of them at which Johnny Dio and various other witnesses appeared, did you go into the subject of these labor reports required to be filed under the Section (f) and (g) of the Taft-Hartley Act? A. No.

Q. Or the reports to be filed with the Internal Revenue Service? A. No. No, we were interested in a different matter, a different phase certainly, at that time.

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416 REDIRECT EXAMINATION

BY MR. HITZ:

Q. Mr. Kennedy, Mr. Pickens asked a number of questions directed at the fact that your Committee first contacted the Labor Department and the National Labor Relations Board with respect to

the registration forms that had been filed by the Teamsters union, and its various ramification unions, or locals, in January 1957, and that it was after considerable investigating had been done in the field of labor racketeering.

I would like to ask you what caused your Committee staff to make that contact with the Labor Department and with the Labor Relations Board as late as January, 1957? A. Well, it was only then that we had any information to request it, to request the files. There is, I believe, about 39-thousand that are filed each year, and although we were going into the matter we weren't going to invite over there or request access to all 39-thousand.

We had asked and had access to those that we became interested in, based on the investigation that we had made. That would be the only possible way of conducting an investigation. We couldn't ask for them
417 prior to the time that we had uncovered the fact.

Q. So you uncovered indications of possible misuse of funds and then verified to see whether or not they were reflected or not reflected, or concealed or not concealed, in the Government reports? A. And that based on the information of what the Government intended to do about it, or what it could do about it, and that was the basis of the hearings; the fact that the Government then said they couldn't do anything about it, even if a man filed a report and made a speech the next day saying it was inaccurate, there was nothing they felt they could do about it, and then, of course, we uncovered the fact that the Western Conference of Teamsters doesn't file reports, and, as it ultimately developed, it was the Western Conference Joint Council 28 Building Association, which also doesn't file reports, that the some 300-thousand dollars was taken from. And they don't even file reports, Mr. Hitz.

Q. Is there some terminology for the labor organizations such as the Western Conference that is commonly used in the Labor Department, in the Labor Relations Board, to describe that function? A. Well, it gets down to--at least, according to the conferences that we had with them--whether it is actually a labor organization under the Act, and then

418 a question of whether we were able to show the Western Conference actually takes part in the negotiation of contracts and whether, therefore--and its subsidiaries file, and therefore shouldn't the Western Conference have filed, and that is why, in answer to Mr. Pickens, I said there was confusion over there.

And then after the Highland Park decision, this booklet on the guide for labor organizations and the filing requirement, they put after the--after the Highland Park decision, they said--Can I read it to you?

Q. First, will you cite the full name of that? A. It is A Guide for Labor Organizations to the Filing Requirements of the Labor-Management Relations Act, 1947, Section 9 (f), (g) and (h), National Labor Relations Board, 1954.

And then it gives, on page one, it says:

"This booklet is intended to indicate how your organization should go about complying with the filing requirements of Section 9 (f), (g) and (h) of the Labor-Management Relations Act, 1947. This Act provides that any labor organization which wishes to use the services of the National Labor Relations Board must file certain annual registration and financial reports and annual non-Communist affidavits by each of its officers. These reports and affidavits must be filed to enable labor organizations to bring charges of unfair labor practices before the Board or to obtain a representation, election, or to make a legal union shop agree-

419 ment. In addition, any national or international labor organization that the union is affiliated with must also make these filings. This includes any federation such as A. F. of L. or C. I. O. with which your organization may be affiliated. For example, take a local union that is affiliated with a national union which is in turn affiliated with the A. F. of L. - C. I. O., in order for the local to achieve full compliance enabling it to bring cases before the Board, or to make legal union shop agreements, all the following organizations must meet the filing requirements of the Act:

"The local union, the national union, and the federation, A. F. of L. or C. I. O., or other federations as the case may be, and under some circumstances certain intermediate bodies. The same is true when its affiliated national unions"--

Then it just goes on to explain.

So then the question came, and we questioned the people from the Labor Department, NLRB, about this statement "And under some circumstances certain intermediate bodies," and I think that there is where some of the confusion rests, because shouldn't the Western Conference of Teamsters, which handles most of the funds or handles a good number of the funds for the teamster labor organizations on the West Coast--

420 doesn't it make the requirement under the Taft-Hartley Act a ridiculous one, if an organization such as this does not have to file at all? And particularly after the Highland Park decision.

I think that was one of the matters that we wanted to bring out about the economy and efficiency of the Government; whether they shouldn't have these organizations, or at least be cognizant of the fact about these organizations.

Q. Now, the Western Conference would be an intermediate union organization under that, would it not? A. Yes. Number one, it might be that, so it would have to file under this.

Q. Yes. A. Which is possible, and that arises out of the Highland Park decision, and, Number two, it might itself be a labor organization which conducts negotiations and carries on negotiations, and when that happens and any section or part of it files with the NLRB, it should also file. So there are two possibilities that the Western Conference of Teamsters should have filed. And we were just trying to clarify the record, and we got into--with Mr. Leedom we got into that, on the question of whether the Western Conference of Teamsters is actually a labor organization, and in what regards Mr. Leedom should get reports from the Western part of the Conference to find out whether that was,

421 and he wasn't able to answer that question in answer to Mr. Symington. He was still unable to answer those questions when he appeared

before the Committee and I think that that is a matter which is of considerable interest--it must be of considerable interest--if there is any merit in having Sections 9 (f), (g) and (h) at all. If there is any merit in having those sections at all, certainly all organizations dealing with the situation should have to file, or at least it would appear that way.

Q. Well, now, in spite of the fact that Mr. Leedom said that he didn't know whether the Western Conference should file--in spite of that, he said, Number one, they never have filed? A. That is correct.

Q. And, Number two, he produced certain contracts that had been signed by the Western Conference in labor disputes? A. That is correct.

Q. Isn't that true? A. And also, when we pointed out at that conference, that the Central Conference of Teamsters, which is an organization similar to the Western Conference of Teamsters, had filed, and I believe the Southern Conference of Teamsters filed, so why would they be filing and the Western Conference not filing? It was confusion, and then, of course, Joint Council 28, and and Joint Council 28 Building
422 Association, all of these organizations that handle so much money, the Labor Department was not even cognizant of their existence. And that certainly was a matter that we wanted to develop and find out what the answer was, and we only uncovered that on our investigation that we conducted on the West Coast. So that's when we had the conferences with them.

We wouldn't have had any questions to ask them unless we had uncovered the first information.

Q. Would what you have said with reference to the timing of your conference with the Labor Department in January, 1957, likewise apply to the time when you first went to the Internal Revenue Bureau with respect to the financial statements that were made to accomplish tax exemption on behalf of the unions? A. Exactly. That, and also the fact that--you might ask the same thing about why don't we ask for income tax returns of everybody in the United States. Until you got the information or found out the information, you don't take the second step to find out particular

information from the Internal Revenue Department or the NLRB, or whatever it might be. You have got to know the people that you are talking about first.

* * * * * *

423 RECROSS-EXAMINATION

BY MR. PICKENS:

Q. It is not your position, Mr. Kennedy, for example, that this building association of Joint Council 28 is a labor organization? That was not your position? A. Well, my position is that these intermediate organizations that handle large sums of money, without taking any position one way or the other, it was the intention of Congress to have a filing of finances from labor unions. It seems to me there is a gap in the law, if you can set up a sort of an intermediate organization which handles large sums of money, and never know how that money is used or misused.

Now, I think that we have a perfect case in the case of Mr. Dave Beck. As you are aware, there was testimony before the Senate Select Committee that he took some 370-thousand dollars. Now, that money came out of the Western Conference of Teamsters and was paid back to the Joint Council 28 Building Association, and neither one of these organizations files with the Labor Department.

Now, if it is the intent of Congress to have a complete reckoning of how union funds are used, and any money that goes into the building association is union funds, I think that Congress is going to have to consider whether they would want that organization to file as well. And whether it is a labor organization or not I think they have to make that

424 determination whether they want all these intermediate organizations to file, and I think it was only through our hearing, the Senate Subcommittee Investigations hearings, that these things were developed, or people became cognizant of these facts.

And also the fact--well, I think they were aware of the fact that the public couldn't see these reports after they were filed, but, at least, it didn't know these other matters, I don't believe.

Q. Well, the Act doesn't require any labor organization in and of itself to file any forms, any financial forms with the Department of Labor; is that true?

No labor organization is required to file these forms? A. That is correct.

Q. I mean, you are familiar with the fact that John L. Lewis' United Mine Workers have never filed forms under 9 (f), (g) and (h) of the Act? A. I agree with that.

Q. It was only if they wanted to avail themselves of the processes of the NLRB Act? A. So, if it was Congress' intentions that the labor organizations that want to make--and anyone connected with labor organizations, or any organization connected with that labor organization, wants to use the NLRB, they want a complete financial reckoning from that organization, then they possibly will want the Western Conference to
425 file, Joint Council 28 Building Association, Joint Council 28 Development Fund and Joint Council 28--all the rest of them.

I think that is a very important matter, very important, and that Congress is going to have to consider.

* * * * * *

EXAMINATION BY THE COURT

BY THE COURT:

Q. Mr. Kennedy, prior to the formation of the present Select Committee for the so-called investigation of racketeering and so forth in labor, you were counsel to the Permanent Subcommittee on Investigations of the Committee on Government Operations; correct? A. Yes, sir.

Q. And had been for how long, approximately? A. Since January of 1955.

Q. And you had been conducting, that is helping the Committee conduct several investigations regarding various matters. That is correct, is it not? A. Yes, sir.

Q. I would like you to enlighten the Court, if you will, as to the
426 nature of some of the investigations that were conducted by your committee prior to the formation of the Select Committee. If you can give

me a brief resume. A. Well, I think the first investigation that we went into was on the General Zwicker matter, and the promotion of Irving Perez.

The second matter we went into was procurement, when we had, I guess 35 or 40 witnesses. We had a number of contractors that were selling clothes, uniforms, to the Government. We had Mr. Harry Lev and Marvin Rubin, and Sol Schlessinger, who mostly in Philadelphia, New Jersey and New York, were making uniforms for the Government, and we had information indicating that there was fraud involved, that the contracts with the Government involved fraud, either in the initial contract or in changes in the contract that they were able to achieve later on, or in connection with the inspection.

We had a number of those contractors down and a number of those associated with the contractors.

We then got into a case involving the building of grain bins in Pakistan, with FOA, where the Government had made a contract with an engineering firm to determine the site and determine what companies should receive a contract from FOA for the building of grain bins. And we went into that and called some of the people from the engineering firm, and we called people from various of the firms that had bid, and found that there was collusion between the engineer who was sent out to
427 Pakistan by the Government and by one of these firms. And the Government FOA ultimately through that out.

We went into East-West Trade, we went into a conflict of interests case involving Mr. Harold Talbott, and we had him as a witness, as well as some of the companies with whom he had been associated. And we had a conflict of interests case involving Mr. Cross, who was head of the ICC, I believe. Then we went back in, in 1956, into procurement. We had the Kravitz's down, Joey Abrams. We went back into East-West Trade. I think that is about it.

Q. Mr. Kennedy, in connection with those investigations was your committee proceeding pursuant to the authority vested in that committee under the Reorganization Act of 1946? A. Yes, your Honor.

Q. With particular reference to these following sections, "(2), studying the operation of government activities at all levels with a view to determining its economy and efficiency," does that paragraph indicate the authority under which you were proceeding in most of those investigations? A. Yes, your Honor.

Q. So that you had a pretty broad power; is that correct? A. I think very broad, your Honor.

Q. Was your Committee ever referred to as the so-called watch-
428 dog committee? A. I think it was initially. Then--I believe the answer is yes, your Honor.

Q. Let me ask you this. This is a matter I have been thinking about during the trial, and I don't know whether it has been developed by either side, or it may be repetitious, but I don't think it is:

Let us assume that your Committee is getting ready to conduct a certain investigation of, you might say, the radio industry, or looking into a situation whereby you might feel that the Federal Communications Commission has not been administering its laws efficiently. Before conducting that kind of an investigation, would you consult with any other chairman of the various committees organized under the Reorganization Act, to determine which committee had jurisdiction of that subject matter, or would you just go ahead and decide among yourselves, the chairman and yourself and the other members? A. Well, we haven't had a problem such as that. I think that we obviously--practically everything we do gets into the jurisdiction of some other committee, but we have a staff, and it is called the Permanent Subcommittee on Investigations. We are a permanent subcommittee. It does nothing but investigate, and we have had the experience in this field.

Ordinarily, with very few exceptions, in the legislation--we might
429 make recommendations on legislation, but that would be handled by another committee.

We usually get into the type of things that other committees ordinarily wouldn't be looking into.

We would not, for instance, be going into a matter of why--

ordinarily we would not be looking into a matter of why the tanks were allowed to be shipped to Saudi Arabia, or why Mr. Dulles didn't loan the money to Egypt. That gets into the Foreign Relations Committee. But we would get into some aspects of that when we would get into whether there was fraud in the building of the grain bins in Pakistan; whether there was some collusion between people.

Now, the Foreign Relations Committee ordinarily wouldn't have a staff that could make that type of investigation. If it came to their attention, they might refer it to us because we are that type of a committee and that type of a subcommittee, and, as I say, have had the experience. And if we had something that would get into purely legislation, or Mr. Dulles, or that type of thing, we would not handle it.

So it usually fits easily into its various categories. If there was going to be a conflict, then I would talk to the chief counsel of the other committee. For instance, we have some discussions with Bob Morris of the Internal Security Committee, and some discussions between Senator McClellan and some of the chairmen, but it does not happen very often.

430 Q. That is what I had in mind, just what you mentioned there. When there is some question in your mind, or the chairman's mind, whether or not your committee should conduct the investigation, then there are times when you consult with other staff members or counsel to other committees and you decide among yourselves or between yourselves which committee shall conduct the investigation. Is that correct?

A. Yes.

Q. Is your committee primarily interested in those types of investigations that try to uncover fraud, corruption, and dishonesty insofar as how it affects the efficiency and economy of the Government?

A. Yes, and flagrant inefficiency; we ordinarily get into that.

* * * * * *

FURTHER CROSS-EXAMINATION

BY MR. PICKENS:

Q. Are you familiar with the provisions of the Legislative

Reorganization Act of 1946? A. No. I am familiar with some of it, but I haven't looked at it lately.

431 Q. Are you familiar with the fact that that Act provided for a staff of investigators for each and every standing committee of the Senate? A. I understand that, yes.

Q. Did you know that the authors of the Legislative Reorganization Act fashioned the Committee on Government Operations after the English Committee on the Public Budget? A. No, I wasn't familiar with that.

Q. Are you familiar with the fact that the Legislative history of the 1946 Act, that the authors of the bill, like Senator LaFollette, turned down, and the Senate itself turned down Senator McClellan's proposal that there be a joint so-called watchdog committee?

Are you familiar with those facts? A. I am not familiar with that.

Q. Do you know or are you familiar with the fact that in February of 1948 that this subcommittee, this subcommittee on Investigations, was set up solely for the purpose of looking into fraud and malfeasance allegedly on the part of the officers of the Truman Administration? A. You mean it was set up with the understanding it was to look into fraud and malfeasance on the part of the officers under President Truman?

Q. That is correct. A. I never heard of that.

432 Q. You never heard of that? A. No.

MR. PICKENS: That is all I have, your Honor.

433 MR. HITZ: Your Honor, I have some statements in the Congressional Record for 1946, 1947 and 1952, which I believe are part of the legislative history of the Reorganization Act, and in some instances of the particular provision for the Government Operations Committee as it is now called.

In view of the fact that Mr. Pickens is asking the Court to give the words "efficiency" and "economy" a very narrow meaning, attempting to limit it to the actual nickels-and-dimes process of checking accounts, and of the economy of government agencies and executive

departments, with the idea of conserving manpower or some such narrow administrative function, I feel that the legislative history is appropriate to go into, to see whether or not that was the intent of Congress and those who had to do with the passage of the Reorganization Act.

And I would like to cite, as bits of legislative history, the statements of Senators dealing with this particular subject.

434 THE COURT: Very well.

MR. HITZ: My first reference will be to the Congressional Record, Volume 92, page 6345, which was of the year 1946 and of June 5.

This is a quotation from a statement by Senator LaFollette in the course of the debates which led to the passage of the Reorganization Act of 1946.

Senator LaFollette was the principal proponent of the Reorganization Act in 1946, and he states in part as follows:

> "Mr. President, in this measure we have proposed, for the first time in the history of the Rules of the Senate, to define the jurisdiction of the reorganized committees. Under the practice of the Senate, the jurisdiction of committees has grown up in part as a result of their names, and in part because of the general field of legislation which they normally would cover. Committees have also acquired jurisdiction simply because they have had the power to initiate a particular piece of legislation, especially in a new field. As a result of this practice, the jurisdictional lines between our committees are confused, not only because they overlap but also because of the practice of having jurisdiction attach to a particular committee if, by chance, it may have considered
> 435 original legislation in some new field."

The next, and still part of the debates on the Reorganization Act, to be found in the same volume, 92 Congressional Record, page 6366, Senator White has the following to say, and at this point he and Senator LaFollette are engaged in a colloquy. Senator White states:

> "Mr. President, let me express my satisfaction that I-

interrupted the Senators at this point, in view of what he has said. I wish to refer to the question of special committees and the proper functions of our standing legislative committees. I think I am stating the fact accurately when I say that, in the case of most of our special committees they have no legislative authority whatsoever, but are investigatory in character, and in some instances are permitted to make recommendations; and that is all. That does not relieve the standing committees of the Senate of the obligation of study and of reaching conclusions. In a sense, it involves a duplication of effort.

"Does not the Senator believe that to be so?

"Senator LaFollette. Yes, I do, and I think the Senator has helped to emphasize a very important aspect of this particular recommendation of the joint committee which is now contained in the pending measure."

436 The next passage is on page 6371 of the same volume. This is on June 6. Senator White's remarks were also on June 6.

This is from Senator Mead:

"Mr. President, let me say to the able Senator"-- And it was LaFollette.

"--that there are unusual occasions in which the appointment of a special committee is essential, for the reason that the task to be performed is one which no particular standing committee could cover in its entirety. The Senator mentioned the case of the special committee to investigate the national defense program. As the Senator well remembers, after the First World War the Congress created approximately one-hundred special committees to investigate the war effort. They covered phases of the war which ordinarily would have been assigned to the Military Affairs Committee, or the Naval Affairs Committee, or to some other standing committee. In connection with the conduct of the recent war, we created just one committee. We set it up before the war actually started, and it went along with the

developments of the war effort, and because of its overall job it made correctional recommendations which could not have been made by any standing committee. I can see, however, that it will
437 be very helpful to eliminate the special committees, provided we strengthen the standing committees and give them sufficient personnel to enable them to maintain the health and vigor of the legislative branch of the Government and to prevent the nullification of its policies by the executive agencies of the Government which, from time to time, have been known to drift in that direction."

The next passage is on page 6372, the same volume, on the same day.

This is part of a remark made by Senator Hill in the same debate:

"I believe the bill will give to that committee a jurisdiction"--

He is speaking of the Committee on Expenditures in the Executive Departments, the former name of the Government Operations Committee.

"I believe the bill will give to that committee a jurisdiction and a responsibility and an emphasis which it certainly has not had in the past; and will make it a committee which will look into many matters and will cover many subjects which it has not been able to handle in the past. By virtue of handling them, it will eliminate the need we have had in the past for some of the special committees."

438 "Mr. LaFollette. I believe so, I also believe that the provisions which we propose in connection with the activities of the Comptroller General, and the reports coming to that committee, will develop a close liaison between the Committee on Expenditures in the Executive Departments and the Comptroller General.

"I did not quite complete my answer to the Senator from New York. On page 10, under sub-paragraph (c), we have charged the Committee on Expenditures in the Executive

Departments with the responsibility of evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government."

And I should add that I read that passage, although with a pause here and there, it was without omission.

The next passage is on page 6394, same volume, same date, same debate:

"Senator LaFollette. The committee came to the conclusion that if we could reorganize the committees and staff them adequately, it would be in the interest of orderly and efficient legislative procedure to have the standing committees, or subcommittees thereof, conduct studies and investigations, because, after all, if legislation is to flow from these activities, normally the select or joint committees do not have legislative power and
439 it is often necessary for the standing committee to thrash over much of the straw and wheat that has been thrashed over by a special or select joint committee as the case may be."

That is just a general observation.

The next is on page 6555 of the same volume, on June 10, 1946, in the same debates. This is part of a statement made on the floor by Senator McClellan:

"When I offer the amendment, which I have sent to the desk and which is printed and on the desks of Senators, I shall point out the duties and functions as set forth in the bill and in the report of the committee which are imposed upon the new committee on expenditures in the executive departments. By forming the two committees, the House committee and the Senate committee, into a joint committee"--

And I should interrupt by saying that was what Senator McClellan's bill was. He was not dissatisfied with the setting up of the Committee on Expenditures in the Executive Departments in the House or Senate. He just thought it would be helpful if they could be combined into one such committee.

And continuing to read, without omission:

"By forming the two committees, the House Committee and the Senate committee into a joint committee, for the purpose of making the investigations and studies which the pending legis-
440 lation directs each committee, at least each Senate committee, to make, this work could be done if the committee were properly staffed with men competent to assist it, and a better surveillance could be kept over the different administrative and executive agencies of the Government."

The next passage is in Volume 92 of the Congressional Record, page 348. This was in the course of debates for the extension of--

MR. PICKENS: Could I have the citation again; I am sorry.

MR. HITZ: 93 Congressional Record, 349. I said 348, but it is on 349. This was in the course of debates for the extension of the special committee to investigate the national defense program, which committee, to remind the Court of it, had been known as the Truman Committee, then as the Mead Committee, and finally the Brewster Committee, and this was a proposal to extend that special committee, in spite of the policy against special committees in the Reorganization Act background,to extend it for another period of time. This is 1947.

The special committee was extended, but for one more year only, until 1948, and it never was extended beyond. This has to do with that one-year extension.

These are remarks made by Senator Ferguson.

441 THE COURT: Let me interrupt you there.

MR. HITZ: Yes, your Honor.

THE COURT: Which committee succeeded that special committee to investigate the defense program?

MR. HITZ: Those powers were taken into this same committee on expenditures in the executive departments that we are concerned with. That is the point of all of it. But this is their last year of life as a special committee.

MR. PICKENS: Of course, we would not agree that that was the case. I understand that is his argument, however.

THE COURT: All right.

MR. HITZ I have got a committee minute on that subject. This is Senator Ferguson:

"To do this job, however, the Senate created a special committee to act as guardian of the powers of Congress, equipped it with wide authority to investigate, and ordered it to report currently to the Senate with respect to the administration of the war program. Before the job is done, and a report of the findings fully made, it is now proposed that we dissolve the committee. Will anyone seriously argue that the present standing committees which are being formed and whose staffs are not fully organized, with all the legislative work now before them during the Eightieth
442. Congress, and without the background and the special knowledge of this committee as a result of its six years of investigating our war effort, could possibly be as efficient or as effective as the special committee to investigate the national defense program?"

The next passage is on page 353 of the same volume, on the date of January 15, 1947, in the same debates having to do with the extension of the special committee on the war program.

This is part of the remarks made by Senator Ferguson:

"Mr. President, since last Friday when the opposition to the continuance of the Truman-Mead Committee first became apparent, I have sought to find the real reason behind the movement. One is reluctant to come to the conclusion that it proceeds from a fear of what the committee may expose. Of course, the opposition will not agree or admit that it is based on any such grounds, and the administration would not dare publicly admit that it seeks to dispose of the one instrument which is presently equipped to discover errors, waste, incompetence and dishonesty in connection with the hundreds of billions of dollars we have spent in the war effort."

The next passage is on page 464 of the same volume No. 93, and
443 this is part of the same debate on the extension of the War Investigating Committee.

Remarks by Senator Ferguson:

"Just a moment. It is now urged that this very committee take over the entire investigation."

I should interrupt to say the committee about which he is speaking is the Committee on Expenditures in the Executive Departments.

And now to resume the quotation, without omission:

"If it does, it will not do as speedy a job as can be done if the Senate continues the special committee for a limited time in order to do this particular job. I say that even though I am a member of the standing committee only, I am not willing to surrender any jurisdiction because I see, not only at the present time, but in the future, a great need for the committee on expenditures in the executive departments, a committee that will be able to serve the people of the United States through its power to investigate."

After some remarks by two or three other Senators, but shortly after what I have just read, Senator Brewster had the following to say--and on the same page, 464:

"I wish to associate myself with the position of the Senator from Vermont as to the powers of the committee of which he is
444 chairman"--

I will interrupt to say that the Senator from Vermont was Senator Aiken and that his committee was the Government Expenditures Committee.

I will re-read that sentence:

"I wish to associate myself with the position of the Senator from Vermont as to the powers of the committee of which he is chairman, inasmuch as it seems to me that under a fair construction of the language not only has that committee the power to investigate every cent of expenditure made hereafter, but also every cent of expenditure made heretofore, not only in the conduct of the war but in the conduct of the Federal Government, from 1790 when it began, in making a study of the efficiency of Governmental operations."

Next, but still on the same page, 464, Senator Aiken of Vermont had the following to say:

"First, I should like to thank the Senator from Maine for his interpretation of the Act, which coincides with my own interpretation of it. The reason I rose a few minutes ago to ask a question of the Senator from Iowa"--

And that was Senator Hickenlooper.

"--was that I did not wish to have read into the record anything which might later on be construed as delimiting the
445 powers of the committee. I fully realize the purpose of the Senator from Iowa in making those remarks, and I realize that they were not intended to delimit the powers of the committee in any way."

The next quotation is on the following page, 465, in the same debates, and, in fact, in the same colloquy among the Senators, the remarks of Senator Hickenlooper who, in the last passage, I think it was, or one of the ones I recently read, Senator Aiken or someone else said was attempting to delimit the powers of the expenditures committee.

Mr. Hickenlooper, however, states:

"I sincerely fear that if the Tydings amendment is adopted, it will be the opening wedge for a future limitation of the investigating activities of the committee of which the Senator from Vermont and I are members."

That is the Expenditures Committee.

"I say that I do not wish to see them limited in the future when, as a committee, they begin their permanent activities. That is my position, and on that point I am entirely with the Chairman of the committee on Expenditures in the Executive Departments, because, for two years past, as he well knows, I have been interested in enlarging and expanding the duties of that committee, and in regard to the complete inactivity of the com-
446 mittee in the past I have been just as restless as the present chairman of the committee has. As I recall, he and I, and the

Junior Senator from Michigan, Mr. Ferguson, have talked about the matter a number of times. I agree with him and I wish to go right along with him, but I feel sincerely, and with great conviction, that a special committee which in the past has been operating under three different chairmen, and which has been able to dig into fields and produce evidence of corruption and mismanagement, which at least no other Senate committee has been able to produce with such vigor and accurateness, should continue on a temporary basis until a permanent committee can reach its maturity, if you please, and can take over that field. However, for the sake of the continuity of the investigation, and in order that the probing into the conduct of public affairs shall not suffer or be hampered by a hiatus during the time when these functions are taken over by the standing committee, I think it is absolutely essential that the special committee to investigate the national defense program be continued on a temporary basis. I have never urged anything else and I shall not urge anything else."

And I should add that, as a result of those debates, the War Investigating Committee was extended for one year, into 1948.

447 There has been called to my attention a statement by Senator Aiken, I think it is--No, Senator Lucas, who states what I stated a moment ago, that the Committee on Expenditures in the Executive Departments took over the duties of the War Investigating Committee.

This is found in Volume 94, Congressional Record, page 1674, date of February 25, 1948.

Senator Lucas states:

"It is no secret that the committee on expenditures in the executive departments, through its subcommittee headed by the junior Senator from Michigan, has been named as successor to the War Investigating Committee to carry on in the same tradition."

Your Honor, the next and the last citation to the Congressional Record I would like to invite your attention to is one on page 1701. I will be able later to supply the volume number. The date, however, of this

Congressional Record, is March 3, 1952.

This has reference to the proposed change in name of the Expenditures Committee to the Senate Committee on Government Operations, which proposal was favorably recommended by one or more committees having to do with it in the Senate. It was debated in the following fashion, in part, and subsequently was passed.

448 I think the resolution which accomplished this change in name is footnoted, in the copy of the Reorganization Act compilation, which I have in evidence in this case, as Government 1.

"Senator Hayden. Mr. President, from the Committee on Rules and Administration, I report favorably, without amendment, Senate Resolution 280. I ask unanimous consent for its present consideration.

"The Vice President. The resolution will be read for the information of the Senate.

"The resolution, submitted by Mr. McClellan (for himself, Mr. Hoey, Mr. O'Conor, Mr. Humphrey, Mr. Monroney, Mr. Underwood, Mr. Moody, Mr. McCarthy, Mr. Mundt, Mrs. Smith of Maine, Mr. Schoeppel, Mr. Dworshak, and Mr. Nixon) on February 19, 1952, was read as follows:

"Resolved, That paragraphs (1) (g) and (4) of rule XXV of the Standing Rules of the Senate are each amended by striking out "Committee on Expenditures in the Executive Departments" and inserting in lieu thereof "Committee on Government Operations."

"Mr. Hayden. Mr. President, this resolution was submitted unanimously on behalf of the members of the Committee on Expenditures in the Executive Departments and unanimously

449 reported by that committee. I am advised by the chairman of the committee that the House Committee on Expenditures in the Executive Departments has likewise requested that its name be changed to the Committee on Government Operations, a shorter and better title.

"The Vice President. Is there objection to the present consideration of the resolution?

"There being no objection, the resolution was considered and agreed to.

"Mr. Hayden. I ask unanimous consent to have printed in the Record at this point as a part of my remarks a letter addressed to me by the Chairman of the Committee on Expenditures in the Executive Departments (Mr. McClellan) dated February 19, 1952.

"There being no objection, the letter was ordered to be printed in the Record, as follows:

"United States Senate, Committee on Expenditures in the Executive Departments, February 19, 1952.

"Honorable Carl Hayden, United States Senate, Washington, D. C.

"Dear Senator Hayden: Attached hereto is a copy of Senate Resolution 280 which has for its purpose the changing of the name of the Committee on Expenditures in the Executive Departments to the Committee on Government Operations. As will be
450 noted, all members of this committee have joined in cosponsoring this resolution, the change being approved unanimously by the committee in executive session held on February 5, 1952.

"As you may recall, this committee reported a bill in the Eightieth Congress, S. 2575, to amend the Legislative Reorganization Act of 1946, on May 3, 1948, proposing this change in the name of the committee. The bill was then referred to the Committee on Rules and Administration for further consideration but, due to other provisions contained in the bill to which members of your committee were opposed, no action was taken to report the bill or the provision which would have changed the name of the committee at that time, although I understand there was no opposition to that particular section of the bill.

"This committee is proposing the indicated change in the

present title, in view of the fact that it is misleading and the committee's functions and duties are generally misunderstood by the public. Some members of the committee indicated that they had refrained from using the committee letterhead because of this fact and that they had received a number of communications which indicated confusion in the minds of the public regarding the
451 exact functions and purposes of the committee.

"In suggesting the proposed change the committee based its decision on what it considers to be the major or primary function of the committee under the prescribed duties assigned to it to study 'the operations of Government activities at all levels with a view to determining its economy and efficiency.' It was the unanimous view of the members of the committee that the proposed new title would be more accurate in defining the purposes for which the committee was created and in clearly establishing the major purpose it serves.

"At the direction of the committee the chairman has communicated with members of the House Committee on Expenditures in the Executive Departments requesting a determination from that committee as to whether or not this proposed change would meet with its approval on the basis that it was not considered desirable to make such a change if the corresponding committee in the House, with identical duties and functions, desired to retain its present title.

"While the House committee has not as yet taken action a number of the members of that committee have already indicated approval of the proposal to introduce a companion House resolution which would bring about uniformity of committee structure
452 in that body, should the Senate approve Senate Resolution 280.

"It would be appreciated if you would bring this matter before your committee at its next meeting with a view to obtaining its approval and having the resolution reported to the Senate for action. Such final action by the Senate could be postponed until

it was definitely determined that the House of Representatives would take similar action.

"Thanking you for your cooperation in this matter, and with kind regards, I am,

"Sincerely yours,

"John L. McClellan, Chairman."

Your Honor, my next offer is a document I would like to have marked.

THE DEPUTY CLERK: Government's Exhibit 10.

(Government's Exhibit No. 10 was marked for identification.)

MR. HITZ: Government 10 for identification is a photostatic copy of excerpts from the minutes of a meeting of the Committee on Expenditures in the Executive Departments, held January 15, 1948.

I have shown this to counsel on the other side, and I understand that he has no objection except that he would like to be able to examine the full minutes, and I will provide him with that opportunity. I think he is entitled to see them.

453 I would like, however, to offer this excerpt.

THE COURT: Very well, it will be received.

(Government's Exhibit No. 10 for identification was received in evidence.)

MR. PICKENS: With the exception that Mr. Hitz stated, I won't object if I have the assurance that I will see the full minutes, because I think with regard to the minutes that your Honor allowed him four on January 14, 1957; if there is any question about it, I have a number of authorities here to say that we have minutes of meetings and that sort of thing; that excerpts are not proper evidence unless counsel for the other side shall see the entire minute.

THE COURT: As I understand, Mr. Hitz has agreed to furnish you the copy of all of the minutes.

MR. PICKENS: That is what I understand. So, therefore, I have no objection to this.

MR. HITZ: May it be received with that understanding, your Honor?

THE COURT: It may be.

MR. HITZ: What I have just read is the heading of this document, and, to continue:

"The Committee on Expenditures in the Executive Departments met, pursuant to notice, on Thursday, January 15, 1948, at 10:00 a. m. in Room 357, Senate Office Building. Senator Aiken, Chairman, presided. Also present were Senators Ferguson, Thye, Ives, McClellan, Hoey, and Taylor. Senators Hickenlooper, Bricker, McCarthy, Eastland, Robertson (Virginia), and O'Conor were unable to be present.

"The following matters were discussed:

"S. Res. 189 - 'Authorizing the Committee on Expenditures in the Executive Departments to make certain expenditures and to employ temporary assistants.' Introduced by Senator Aiken on January 14, 1948.

"Chairman Aiken explained that this resolution would consolidate in one subcommittee the work of the present Special Committee to Investigate the National Defense Program (S. Res. 46, 80th Congress and earlier resolutions) expiring January 31, 1948, and the Surplus Property Subcommittee (S. Res. 75, 80th Congress) of the Expenditures Committee. Senator Ferguson (Chairman of the Surplus Property Subcommittee) advised that approximately $40,000 remains from the $100,000 appropriation under S. Res. 75. This would be available to the Committee, or subcommittee, in addition to the $125,000 appropriation authorized in S. Res. 189.

"On motion of Senator Hoey, without objection it was voted to favorably report S. Res. 189."

And then the certification of this as a copy.

I may say, lest there be any misunderstanding, that we do not contend that this is a resolution which gives special authority to the

Expenditures in Executive Departments. It is merely a resolution which has been interpreted by Senator Aiken as having that effect. 189 does not say it in so many words, but Senator Aiken so states, as is recited in this excerpt of minutes, and we offer it as a bit of legislative history coming from Senator Aiken.

THE COURT: It is received.

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MR. HITZ: Do you have a copy of the minutes for February 26, 1948?

MR. PICKENS: I have an excerpt.

MR. HITZ: Would you mark this Government 11 for identification, please.

(Government's Exhibit No. 11 was marked for identification.)

456 MR. HITZ: Your Honor, I would like to offer Government 11 for identification, which is excerpts from the Minutes of the Meeting of the Committee on Expenditures in the Executive Departments, February 26, 1948.

I should point out that the document I have here is actually an excerpt from the minutes, although the title there is "Minutes of the Meeting."

I make the offer and I understand that Mr. Pickens--I think you have objected to this as being an excerpt only, or at least you have indicated that.

MR. PICKENS: That is correct. The one I have is only an excerpt.

MR. HITZ: Yes. Well, I am offering the same copy that you have.

And if he objects to it as only being an excerpt, I still want to offer the excerpt and make available to him the full minutes of that meeting.

THE COURT: When will the full minutes of that meeting be available, Mr. Hitz?

MR. HITZ: They will be available tomorrow morning.

THE COURT: Well, I will receive it under those conditions. Unless Mr. Pickens objects to it.

Do you object to it?

MR. PICKENS: It doesn't make too much difference to me, but I would prefer that he reserve this number for the full minutes.

457 MR. HITZ: I can do that, except this is my last offer and I will rest immediately after this. I didn't want to wait until tomorrow to do it.

THE COURT: Well, that is the point. I suppose you will have some motion to make after the Government rests.

MR. PICKENS: Yes, your Honor.

THE COURT: Very well.

MR. PICKENS: I really don't have any objection to it as long as we don't have the full one here.

THE COURT: Very well.

MR. HITZ: May it be received with that understanding, then, your Honor?

THE COURT: It may be.

(Government's Exhibit No. 11 for identification was received in evidence.)

MR. HITZ: "The Committee on Expenditures in the Executive Departments met, pursuant to telephone notice, on Thursday, February 26, 1948, at 10:00 a. m. in Room 357, Senate Office Building. Senator Aiken, Chairman, presided. The meeting was called to order at 10:35 a. m. Also present were Senators Ferguson, Bricker, Thye, McCarthy, Ives, McClellan, Hoey, Robertson (Virginia) and O'Conor. Senators Hickenlooper, Eastland, and Taylor were unable to attend.

458 "Chairman Aiken stated that the meeting was called to consider the appointment of a subcommittee to carry out the provisions of S. Res. 189, 80th Congress. A general discussion relative to the size, functions, and authority of the subcommittee

followed.

"At the suggestion of Senator McClellan, it was unanimously agreed to authorize the Chairman to appoint a subcommittee of seven to carry out the provisions of S. Res. 189; three members of the subcommittee to constitute a quorum for the holding of hearings, but not for executive sessions. Chairman Aiken named the following members to the subcommittee:

"Senator Homer Ferguson, Chairman,

"Senator Irving M. Ives,

"Senator John W. Bricker,

"Senator Edward J. Thye,

"Senator John L. McClellan,

"Senator Herbert R. O'Conor,

"Senator Clyde R. Hoey.

"It was further unanimously agreed that the subcommittee be authorized to proceed with any investigation within the jurisdiction of the full committee.

"However, without limiting the authority thus granted to the subcommittee, an understanding was reached that the subcommittee would in general observe the following restrictions upon its activities:

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"1. If the members of the subcommittee fail to reach unanimous agreement with respect to any major investigation or field of investigation, the matter shall be submitted to the full committee for decision.

"2. The principal function of the subcommittee shall be to investigate complaints and information coming to its attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corrupt or unethical practices and waste and extravagance in transactions, contracts, and activities of the Government or of governmental officials or employees.

"3. Studies of routine problems of management or administrative economy or efficiency such as are made from time to

time by the staff of the Committee on Expenditures and which do not require extensive work of an investigating character shall not ordinarily be included in the duties of the subcommittee.

"4. The chief clerk of the Committee on Expenditures and
460 the staff of the subcommittee shall consult together to determine whether particular complaints should be handled by the Expenditures Committee staff or referred to the subcommittee for consideration.

"A name for the subcommittee was discussed. The proposal was made that it be called the Subcommittee on Senate Investigations. It was suggested that it would probably come to be known as the Senate Investigating Committee."

The rest are some procedural provisions which I do not care to read to the Court. They are available because it is in evidence.

* * * * * *

463 MR. HITZ: I still have two exhibits.

MR. PICKENS: All right, sir. I am sorry.

MR. HITZ: I would like to have marked the Committee Rules of Procedure for 1957, Subcommittee Rules of Procedure for 1957, marked Government's number 12 for identification.

THE DEPUTY CLERK: Government's Exhibit 12 for identification.

(Government's Exhibit No. 12 was marked for identification.)

THE COURT: Any objection?

MR. PICKENS: No objection.

MR. HITZ: I offer it in evidence.

THE COURT: Admitted in evidence.

(Government's Exhibit No. 12 for identification was admitted in evidence.)

MR. HITZ: I would like to have a Guide for Labor Organizations of the NLRB marked Government's 13 for identification.

464 (Government's Exhibit No. 13 Marked for identification.)

THE COURT: Any objection?

MR. PICKENS: No objection.

THE COURT: It may be admitted.

(Government's Exhibit No. 13 for identification was admitted in evidence.)

MR. HITZ: That is all we have, your Honor. We rest.

THE COURT: Very well.

GOVERNMENT'S EXHIBIT NO. 5

85th Congress
1st Session

SENATE

CALENDAR NO. 58
Report No. 60

EXCERPTS FROM PROCEEDINGS AGAINST FRANK W. BREWSTER FOR CONTEMPT OF THE SENATE

February 7, 1957.-Ordered to be printed

Mr. McClellan, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. Res. 92]

The Senate Permanent Subcommittee on Investigations of the Committee on Government Operations as created and authorized by the Committee on Government Operations, under the Standing Rules of the Senate, caused to be issued--

(1) A subpena to Frank Brewster, Western Conference of Teamsters, Seattle, Wash. Said subpena directed Frank Brewster to appear before the subcommittee on the 27th day of December 1956, which time was extended by consent to January 16, 1957, at the committee room, Senate Office Building, Washington, D.C.,

and then and there--

(a) To testify what he knew relative to the subject matter under consideration by the subcommittee; and

(b) To produce certain papers consisting of described books and records of the Western Conference of Teamsters.

(2) Issued a subpena to Frank Brester, Joint Council No. 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, Seattle, Wash. Said subpena directed Frank Brewster to appear before the subcommittee on the 27th day of December 1956, which time was extended by consent to January 16, 1957, at the committee room, Senate Office Building, Washington, D. C., and then and there--

(a) To testify what he knew relative to the subject matter under consideration by the subcommittee; and

(b) To produce certain papers consisting of described books and records of the Joint Council No. 28 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers.

The subcommittee, under Senate Resolution 188, 84th Congress, 2d session, and rule XXV of the Standing Rules of the Senate, (g) (2) (B), is given the duty of "studying the operations of Government activities at all levels with a view to determining its economy and efficiency" and under subsection (C) "avaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government." Pursuant to these powers, the subcommittee sought to inquire into and study the operations of the Department of Labor, the National Labor Relations Board, and the Bureau of Internal Revenue in the application of Public Law 101, 80th Congress, 2d session, and the Internal Revenue Code of 1954 relating to exemption from taxation of labor organizations.

On January 16, 1957, the subcommittee heard the testimony of the Secretary of Labor, James Paul Mitchell; the Chairman of the National Labor Relations Board, Boyd D. Leedom; the Assistant Commissioner

GOV'T. EXHIBIT NO. 5

of Internal Revenue, Justin F. Winkle, and others on the same date, and on January 17, 18 and 19, 1957 (the record of the entire testimony taken the aforementioned days are made a part hereof, although not annexed hereto), relative to financial statements and other documents required to be filed under law by labor organizations and unions. The testimony was heard to assist the subcommittee to determine the adequacy of existing statutes: whether present regulations enable these agencies and departments to administer the law efficiently; whether modifications or changes in the existing laws are required to assist the Government in determining the adequacy, accuracy, and truthfulness of financial reports and other data supplied by labor unions and their officials under the aforementioned laws.

Attendance of Frank W. Brewster, pursuant to the aforementioned subpenas, was had in executive session on January 16, 1957, and later made public, and in public session on January 19, 1957, in Washington, D. C.

The said Frank W. Brewster appeared as a witness on the above dates and was asked to produce the papers and records set forth in the subpena and he was asked to testify and answer certain questions. Both the questions he was asked, and the papers he was required to produce, were pertinent to the matter under inquiry. He refused to produce the papers and he refused to answer the questions put to him by the committee members and counsel, as appears in the record of such hearings on January 16 and 19, 1957, which record is made a part hereof; excerpts of which and other testimony pertinent thereto are annexed and designated as "Exhibit No. 1."

As a result of the refusal of said Frank W. Brewster to produce the documents pursuant to the subpenas, and his refusal to answer pursuant to such inquiry those questions put to him as appears in the record, the subcommittee was prevented from receiving testimony and examining pertinent material concerning the matter under inquiry by said committee in accordance with the terms of the subpenas which were served upon this witness.

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The Senate Committee on Government Operations met on February 7, 1957, and, after reviewing the facts in this matter set forth in this report, it resolved to present to the United States Senate, for its immediate action, a resolution requiring the United States attorney for the District of Columbia, to proceed against the said Frank W. Brewster in the manner and in the form prescribed by law.

GOV'T. EXHIBIT NO. 6

EXCERPTS FROM HEARINGS BEFORE THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES SENATE
EIGHTY-FIFTH CONGRESS
First Session

PURSUANT TO SENATE RESOLUTION 188, 84TH CONGRESS

JANUARY 16, 17, 18, AND 19, 1957

VIOLATION OR NONENFORCEMENT OF GOVERNMENT LAWS AND REGULATIONS IN THE LABOR UNION FIELD

(On January 16, 1957, Boyd Leedom, Kenneth C. McGuiness, Harry H. Kuskin, Howard W. Kleeb, Hon. James Paul Mitchell, Stuart Rothman, Justin F. Winkle, John P. Barnes, Frank Brewster, Nugent LaBoma, and Arthur Santa Maria testified in executive session during hearings held by the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations on Violation of Nonenforcement of Government Laws and Regulations in the Labor Union Field. This testimony was made public on January 17, 1957, by members of the subcommittee and follows below:)

WEDNESDAY, JANUARY 16, 1957

UNITED STATES SENATE,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D. C.

The subcommittee met at 10 a. m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in room 357 of the Senate Office

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Building, Senator John L. McClellan (chairman of the subcommittee) presiding:

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Henry M. Jackson, Democrat, Washington; Senator Stuart Symington, Democrat, Missouri; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Joseph R. McCarthy, Republican, Wisconsin; Senator Karl E. Mundt, Republican, South Dakota; Senator Chapman Revercomb, Republican, West Virginia.

Also present: Robert F. Kennedy, chief counsel to the subcommittee; James N. Juliana, chief counsel to the minority; Jerome S. Adlerman, assistant counsel; Ruth Y. Watt, chief clerk.

The CHAIRMAN. The subcommittee will be in order.

(Present at the convening of the executive session were Senators McClellan, Jackson, McCarthy, and Mundt.)

The CHAIRMAN. The Chair will make this preliminary statement for the record.

As members of the subcommittee know, and as is public knowledge, during the past 2 years, the Senate Permanent Subcommittee on Investigations has been studying and inquiring into the procedures and practices in the procurement of textiles and uniforms by the military services. In the course of its investigation, facts were developed showing collusion between certain dishonest management and union officials that had the effect of increasing the cost to the Government of goods and commodities it purchased and the supplying of inferior quality.

In the passage of the Taft-Hartley law in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types of racketeering, including the misuse or misappropriation of union funds by dishonest union officials. The law provides that there shall be a registration of labor organizations and a full and accurate report by such organizations of their revenues and expenditures and of all compensation and allowances over and above $5,000 paid to and received by labor union officials and union employees from dues collected from members or from other union funds.

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Today, the subcommittee will hear officials from the Department of Labor, the National Labor Relations Board, and the Treasury Department. We shall make inquiry of them as to the adequacy of existing statutes and their present rules and regulations to enable them to administer the law efficiently. Also, we shall inquire whether there should be any modifications or changes in existing law to assist them in determining the adequacy, accuracy, and truthfulness of financial reports and other information required to be supplied by labor unions and labor union officials.

We want to determine whether agencies of Government are able to and have the authority to ascertain whether such information contained in such labor union registrations, financial reports, and the reports of the labor union officials are accurate, true or false.

The subcommittee is aware of recent court decisions which may sharply limit and restrict the right of Government agencies such as the Treasury Department, the Bureau of Internal Revenue, the Department of Labor, and the National Labor Relations Board to investigate and determine the accuracy, truthfulness or falseness of various reports the unions and their officials are obligated to file. We intend to ascertain whether, in view of these court decisions, the responsibilities of the Government in this area under existing law are being administered efficiently and economically. We also want to know whether legislation in this area is necessary to improve the efficient and economic administration of existing law or if modification or change is required to promote greater efficiency and economy.

Conferences with representatives of the Bureau of Internal Revenue indicate the need for strengthening legislation to enable the Bureau to investigate labor organizations which, under the law, are tax exempt. The Bureau of Internal Revenue should have the authority to determine whether any of the labor unions' funds and particularly, dues collected from union members, are used by union officials for personal gain and profit. We also want to know whether and why such tax exempt

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labor union organizations can refuse to allow either the legislative or the executive branch of the Government to examine their books and records. The Government should be permitted to establish whether such organizations come within the purview of the law granting it a tax exempt status.

This subcommittee proposes to determine whether, after such refusal, the continuance of a tax exempt status is warranted, or if such tax exempt status should be forfeited by such refusal.

In the course of our previous investigations and this present preliminary inquiry, we have acquired information that clearly indicates that there is labor racketeering in the area of Government procurement resulting in increased cost to the taxpayers for commodities produced; that false reports have been filed by certain labor organizations with respect to their expenditures; that compensation and allowances paid by certain unions to their officials have not been accurately and truthfully reported; that there has been manipulation of accounts involving dues collected from their members, as well as welfare funds; also other irregularities and improprieties have come to the attention of the subcommittee.

It is, therefore, our purpose to develop facts and information that will enable the Federal Government to improve its efficiency and strengthen its economy. In this effort we have every reason to expect the wholehearted cooperation and support of the leaders and members of labor organizations whose actions and practices conform to the law, who observe the proprieties of proper labor-management relations, and who are interested and desire to cooperate in improving the efficiency and economy of Government operations.

I may further state for the record, that since it became known and publicized that this committee was making a preliminary investigation into this area of Government operations, the public has indicated a very keen interest in such an inquiry, as evidenced by letters that the committee is receiving from union members and members of labor

organizations who are reporting about conditions that prevail and urging that attention be given to it.

Also, I think, it is fair to say that a good many Members of Congress have expressed views that there is a job here that should be done by the legislative branch of the Government in furthering an investigation or pursuing an investigation to develop the facts so that Congress may take a look at it with a view to any legislation or any change in administrative procedures that might enhance Government efficiency and economy.

I believe that is all the Chair wishes to state at this time. Does any member of the committee wish to comment?

(Senator Ervin entered the room.)

Senator MUNDT. It is a good statement, and I associate myself with it.

The CHAIRMAN. Will you be sworn? Do you and each of you solemnly swear that the evidence you shall give before this Senate investigating subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LEEDOM. I do.

Mr. McGUINESS. I do.

MR. KUSKIN. I do.

Mr. KLEEB. I do.

TESTIMONY OF BOYD LEEDOM, CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD; KENNETH C. McGUINESS, GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD; HARRY H. KUSKIN, ASSOCIATE CHIEF LEGAL ASSISTANT TO THE CHAIRMAN; AND HOWARD W. KLEEB, DIRECTOR OF THE ADMINISTRATIVE BRANCH OF THE OPERATIONS DIVISION OF THE OFFICE OF GENERAL COUNSEL

Senator ERVIN. I regret that I have to leave on account of an appointment over at the Pentagon, and I would like to leave my proxy with the chairman to vote at his discretion.

The CHAIRMAN. The record will show that. I do not think any votes will come up this morning.

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Gentlemen, will you each state your name, your place of residence and your business, occupation, or official position with the Government for the record?

Mr. LEEDOM. I Am Boyd Leedom, Chairman of the National Labor Relations Board. My residence is 5304 Albermarle Street, Washington 16, D. C.

Mr. McGUINESS. My name is Kenneth C. McGuiness. I am General Counsel of the National Labor Relations Board, amd my home address is 6665 MacArthur Boulevard, Washington 16, D. C.

Mr. KUSKIN. I am Harry H. Kuskin, and I live at 2511 Harmon Road, Silver Spring, Md., and I am associate chief legal assistant to Chairman Leedom.

Mr. KLEEB. Howard W. Kleeb, 2450 North Powhatan Street, Arlington, Va., and I am Director of the Administrative Branch of the Operations Division under the General Counsel.

The CHAIRMAN. You know that we have a rule in this committee that permits witnesses who appear and testify to have the benefit of counsel to be present, and advise them, if they so desire. Since you gentlemen are with the Government, and some of you are lawyers and serve in the Government in a legal capacity, I assume that you waive the right of personal counsel?

Mr. LEEDOM. Yes.

Mr McGUINESS. Yes.

Mr KUSKIN. Yes.

Mr KLEEB. Yes.

The CHAIRMAN. Will you state briefly, Mr. Leedom, first how long you have been on the National Labor Relations Board and how long you have been Chairman, and then also give the committee a brief resume of that Board's functions and what your duties and responsibilities are.

(Members present at this point were the chairman and Senator Jackson.)

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Mr. LEEDOM. I have been a member of the National Labor Relations Board since April 1955 and I have been Chairman since November of 1955. The function of the Labor Board is to administer the Labor-Management Relations Act, the National Labor-Management Relations Act, and that consists primarily of two chief functions: That is, the supervision of representation or union elections in the plants of the country, and the second function has to do with adjudicating charges of unfair labor practices under the act.

To relate the answer to the subject of this inquiry, as I understand it from your opening statement, the National Labor-Management Relations Act denies the use of the Labor Board to all unions that fail to meet certain requirements, and the ones that I think are particularly pertinent here are those in sections 9 (f), (g), and possibly (h) of the act.

Those requirements are, generally speaking, that labor unions shall file statements of their financial activities and operations with the Secretary of Labor, and that they shall file statements concerning their officers and compensation and dues collecting, and that they shall circulate or distribute this information to the rank and file members.

Section 9 (h) requires that every officer file an affidavit that he is not a member of the Communist Party. The statute further provides that any union that fails to meet these requirements that I have enumerated cannot file a charge that will be prosecuted by the Board, and cannot seek the services of the Board in the supervision of an election for them in the plant.

The CHAIRMAN. Before there can be an election by a union, or a local of a union, must that union have complied with the law with respect to registration and meet the other requirements of the statute, and have a certificate from the National Labor Relations Board so certifying, before it can proceed to have a legal election?

I used the term "certificate," and there may be some other name for it, but it is equivalent to a letter stating to the Board in some form that that union has complied with the Taft-Hartley law or the National

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Labor Relations Act and, therefore, it is entitled to recognition by the Board.

Mr. LEEDOM. That is right, sir.

The CHAIRMAN. Now, when this registration is done, what is required in the registration? What information does the Board receive upon which it acts to determine such certificate or letter of compliance?

Mr. LEEDOM. The reports of the unions covering officers, dues, and the moneys collected, and their other financial data are filed with the Secretary of Labor in the form that he prescribes.

The CHAIRMAN. And that registration is not filed with the National Labor Relations Board, but with the Secretary of Labor?

Mr. LEEDOM. That is right. When it is actually filed in the form that he requires, he mails to the union that filed it a little statement that looks like a post card that they have met the filing requirements and the union then is required under our rules to mail that to us. So all we get from the unions as to their financial data and the requirements under 9(f) and (g) are these little so-called post cards advising from the Secretary through the union to us that they have met the filing requirements

The CHAIRMAN. In other words, the National Labor Relations Board acts solely upon a post-card certification issued by the Department of Labor, or by the Secretary of Labor.

Mr LEEDOM. That is right.

The CHAIRMAN. The Board has no other information regarding that registration as to what it contains and what information it has revealed and whether it actually has complied with the law except just a statement from the Secretary to that effect?

Mr LEEDOM. That is right.

The CHAIRMAN. Does the Board in any instance have authority to go behind that post-card certification as to the labor organization compliance?

Mr LEEDOM. It is our opinion that we have no authority to go back of the post card.

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The Chairman. So then your efficiency in that respect, or the efficiency of the Board in that respect, depends entirely upon that certification by that post card that the union has complied?

Mr. LEEDOM. That is correct.

The Chairman. And you have no knowledge about the detailed information that is submitted?

Mr. LEEDOM. That is right.

The CHAIRMAN. And you have no way of inquiring into it?

Mr. LEEDOM. That is right. I might make this explanation which may not really be relevant, but in some cases where there may arise the question as to whether or not the information which the Secretary of Labor requires has actually been filed, sometimes that question gets into one of our compliance cases. That is, the issue will arise in the case, that this union actually is not in compliance in that the Secretary of Labor required their financial data up to a period ending at a given date. The union will be contending that actually it did furnish the information as required up to that date, and so we have had cases where we have gone into that type of a question so that we could decide whether or not they really were in compliance. That is a rare thing.

The CHAIRMAN. Let me ask you this: Do you make any check, or does the Board make any check on the information submitted for registration as to its truthfulness, its accuracy, or its sufficiency?

Mr. LEEDOM. None at all.

The CHAIRMAN. Does the Secretary of Labor make any such check so far as you know?

Mr. LEEDOM. So far as I know, he does not, but I do not really know.

The CHAIRMAN. Well, he can testify as to that. Then, if he does not make a check or have any authority to do so, it is simply a case of just accepting whatever the union wants to submit.

Mr. LEEDOM. That is right.

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The CHAIRMAN. If a union or a labor organization seeking recognition, authority to bargain, and other benefits and privileges accorded under the Labor Act, files a false report or gives misinformation regarding its status at the time it applies, do you know now whether any check is made at all from any source of Government to ascertain whether the Secretary of Labor and the National Labor Relations Board are being imposed upon by such union?

In other words, whether they are telling the truth?

Mr. LEEDOM. According to my best information and belief, there is no check whatever made as to the accuracy by any governmental representative, and I have no way of knowing as to whether or not false affidavits or statements of financial activity are being filed.

The CHAIRMAN. Now, the unions are required, or the labor organizations are required, under the law, I believe, to file annual reports of their finances.

Mr. LEEDOM. That is right.

The CHAIRMAN. And they are also required to distribute that information among their membership. The law requires them to file a statement before your Board showing that they have disseminated that information or distributed that report to their members and how they distributed it. Is that correct?

Mr. LEEDOM. That is correct.

The CHAIRMAN. In that report that is filed and that is distributed to the membership, is there any check made on that by the National Labor Relations Board to ascertain its accuracy and the truthfulness of it?

Mr. LEEDOM. I think I am correct in saying that there never is a check made of the accuracy of the report filed. As to the distribution of the report among the members of the union, when the issue is raised as to whether or not it actually was distributed, the Board inquires into that and requires proof that there was a substantial compliance with the requirement of the statute that it be distributed.

The CHAIRMAN. But you do undertake, and you have that authority, the Board has, as you interpret this law and as the Board functions, to

determine that they have made the distribution?

Mr. LEEDOM. That is right, because of the peculiar wording of the statute.

The CHAIRMAN. But there is nothing in the statute that gives the Board the authority and the Board does not now in practice undertake to verify the truthfulness of the financial statement required to be distributed.

Mr. LEEDOM. That is right. We think now, particularly since the Supreme Court has just recently ruled in the two so-called Communist cases, that it is clearly established that we have no right to go back of the showing of the filing of the financial reports.

The CHAIRMAN. In other words, if a labor organization or union makes application for and seeks registration and files a financial statement that may be false, inaccurate and misleading, the Board as I understand you, if the Secretary of Labor certifies by post card that it has complied, is powerless to go beyond that certification to satisfy itself that the labor union is eligible and has complied with the law.

Mr. LEEDOM. That is my opinion and that opinion is based on the considered judgment of other legal authorities with the Labor Board.

The CHAIRMAN. You spoke of recent court decisions. Would that apply, also, in your judgment, to the Secretary of Labor, that he has no authority to go back of it and beyond it?

Mr. LEEDOM. That would be my opinion, with respect to the Secretary of Labor, too.

The CHAIRMAN. Then, the Government has very little protection if one desires to perpetrate a fraud in this area.

Mr. LEEDOM. That is right. At least these provisions of the National Labor Relations Act afford very little protection. The statute does contain a special reference to fraudulent allegations and the reference of those to the Department of Justice, so that there would be that.

The CHAIRMAN. How are you ever going to determine that they are faulty if you cannot inquire into them?

Mr. LEEDOM. That is right. Our administration of the act is not such that it would tend to uncover fraudulent representations, and how they would come to light is more than I know.

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The CHAIRMAN. If, under the ruling of the Supreme Court recently, their statement cannot be challenged, your Board and the Secretary of Labor are compelled to accept and act upon them without challenge. Then, is there, in your opinion, sufficient protection for the Government's interest?

Mr. LEEDOM. That gets me to an area where I would have to decide exactly what burden or obligation Congress meant to impose upon the Labor Board or what objective they intended to reach by putting these particular provisions, 9(f) and 9(g), into the act. It gets a little involved, but the Supreme Court has held that all Congress intended was respect to the non-Communist affidavit as they related it to the National Labor Relations Act, was to require the officers to make the affidavit and that Congress, so the Supreme Court said as I understand the opinion, could not have intended to burden the Labor Board with the duty of ferreting into each affidavit for the reason that they would not get any cases decided.

Now, if that was the intent of Congress with respect to 9(h), maybe it was not the intent of Congress with respect to 9(f) and (g) to require the Labor Board to delve into the accuracy of the reports and to achieve only such good results as you would achieve by depending upon the honesty of the people who make the affidavit.

I can see that the way is open under the act, the way it is now written and the way it is now interpreted and administered by us, for frauds to be perpetrated without this act providing any very adequate remedy.

Now, if that is a bad situation in the eyes of Congress, then I think Congress ought to change the law.

The CHAIRMAN. Let me ask you another question: Are labor organizations required in this annual report to file a statement of the compensation and allowances made to their officers over and above $5,000 per annum?

Mr LEEDOM. That is right; yes

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The CHAIRMAN. Does the Board now have any authority, or in the course of administering the law does the Board make any check with respect to the accuracy of that report as to the amount of compensation and allowances paid officers?

Mr. LEEDOM. No, we do not, and we think we haven't the authority.

The CHAIRMAN. You do not, and you think you do not have the authority?

Mr. LEEDOM. To do so, yes.

The CHAIRMAN. Do you know whether the Secretary of Labor makes any such check or has the authority to go beyond or behind the report filed and inquire into its veracity?

Mr. LEEDOM. According to my belief, he does not. I have no actual knowledge about that.

The CHAIRMAN. You have no actual knowledge that it is done by any agency of the Government?

Mr. LEEDOM. That is right.

The CHAIRMAN. Does that afford opportunity for imposition of fraud upon the Government? Is that not a loose operation or administrative practice? I am not saying or I am not arguing that you do have the authority, but to leave it in that situation?

Mr. LEEDOM. At least that permits unions and labor organizations to circumvent what may have been the intent of Congress and that is to make the use of the Labor Board available only to those who file honest reports.

The CHAIRMAN. Now, I would think that was the intent of Congress, at least, to require honesty of any citizen or business having a business with the Government.

Mr. LEEDOM. It would seem so, but I have to refer back to the Supreme Court in their non-Communist cases. In those cases the Board took the position that if an officer of a union files a false affidavit and announces practically that he had filed a false affidavit to meet the

requirements of the law, we thought that if everybody else knew it was false we had a right to take notice of the falsity of it and to disregard it. The Supreme Court said otherwise.

The CHAIRMAN. In other words, under the recent court decision, a Communist officer or president of a labor organization can file a perjured oath that he is not a Communist, and a month later the Supreme Court can adjudicate him to be a Communist, but your Board and the Department of Labor is powerless to revoke any privileges that have been granted to the union or to the officer by reason of that false affidavit?

Mr. LEEDOM: That is correct.

The CHAIRMAN. Now, do you say in view of that decision, you think that you are confronted with the same situation with respect to false financial reports?

Mr. LEEDOM. I think that we are.

The CHAIRMAN. Now, do you have information that some unions have filed false financial reports with respect particularly to the compensation and allowances of their officers?

Mr. LEEDOM. I am not aware of any knowledge of that at all, either officially or unofficially. I never have inquired into that. We don't, as I have said, do it officially and I don't recall ever having anybody tell me.

The CHAIRMAN. In other words, you have considered it none of your business under the law as it is today?

Mr. LEEDOM. That is right.

The CHAIRMAN. And, therefore, you have made no inquiry into it?

Mr. LEEDOM. That is right.

The CHAIRMAN. If such is the case that some unions are failing to report truthfully with reference thereto, then is the statute in its present form effective or is it just a shadow of form only?

Mr. LEEDOM. It is not effective to deny the services of the Labor Board to a union whose officer chose to file a false affidavit.

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The CHAIRMAN. In other words, under the law as it is today, as you have interpreted it and in view of the Supreme Court's decision, any fraud can be committed upon the Government in this area by a labor union or labor union officials and still they are entitled to all of the prerogatives and benefits of the statute?

Mr. LEEDOM. That is right. The remedy for their malfeasance would be under the criminal law only and not under the Labor Relations Board.

The CHAIRMAN. They would be subject to penalty under the criminal law, but without the power or authority of anybody to inquire into it it would be a very rare instance in which it would ever come to light and the penalty could be invoked; is that correct?

Mr. LEEDOM. That follows, I think.

The CHAIRMAN. Now, does this act require that not only the local union or local labor organization file these reports and meet all of these requirements under the statute, but does the law also require that any affiliated organization, including the national and international organization, must likewise comply with the statute before they would be entitled to the certificate of compliance?

Mr. LEEDOM. The statute specifically requires only that the labor organization seeking to use the services of the Board, and any of its national or international affiliates, comply. It is not specific as to levels of organization between a local and an international.

The CHAIRMAN. Well, what has been the ruling of your Board with reference to these intermediate organizations as to whether they should file and comply?

Mr. LEEDOM. Under cases that we have decided under the law, we had a policy, not too well defined, of inquiring into the question as to whether or not there is an intermediate organization that is a labor organization and under some circumstances as they appear in cases, from case to case, and on a case-to-case basis, we would hold or have held such intermediaries to be labor organizations and required them to file.

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The CHAIRMAN. Now, in order for a labor organization to get the services of the Board, I believe the statute requires under subsection (B) of subsection (f) of section 9 of the act - I believe I am identifying the location of it; that -

No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under section 9(e)(1) shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 10, unless such labor organization and any national or international labor organization of which such labor organization is an affiliate or constituent unit (A) shall have prior thereto filed with the Secretary of Labor copies of its constitution and bylaws and a report, in such form as the Secretary prescribe, showing among other things--

and then it details them following that.

Then it continues these matters that we have been discussing; including financial statement, compensation of officers, and other things that we have discussed. Is that correct?

Mr. LEEDOM. That is correct.

The CHAIRMAN. Now, we find in subsection (5) of section 2 of the act a definition of the term "labor organization" which is as follows:

The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

That is the legal definition of labor organizations; is that correct?

Mr. LEEDOM. That is correct.

The CHAIRMAN. And your Board, I presume, rigidly adheres to that definition in its deliberations and decisions?

Mr LEEDOM Yes, sir.

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The CHAIRMAN. Now, may I ask you whether the Western Conference of Teamsters have ever complied with the law?

Mr. LEEDOM. They have not.

The CHAIRMAN. Before your Board?

Mr. LEEDOM. They have not.

The CHAIRMAN. Are they authorized to act as a bargaining agent in these matters referred to in section (5)?

Mr. LEEDOM. I assume by your question you mean, are they authorized to act as the labor organization and to bargain and whatever it takes to make a representation. I would say they are not. I think we might clear this up: I was thinking that with respect to using the Board as a labor organization. Now, there is nothing to prevent them, the Western Conference of Teamsters, from doing whatever a labor organization can do without resorting to the services of the Labor Board. But, my initial answer assumed that you meant as a labor organization not having complied, whether they do seek the services of the Labor Board, file charges of an unfair labor practice on the part of someone else.

The CHAIRMAN. Might I inquire whether they are subject to registration if they actually are a superorganization over the teamsters unions in some 11 States?

Mr. LEEDOM. Notwithstanding that there is something above the level of a local, if they seek to act as a labor organization and to utilize the services of the Labor Board, they are required to comply.

The CHAIRMAN. Well, in other words, if they do any of the things enumerated here in subsection (5) of section 2, then they are a labor organization; are they not?

Mr. LEEDOM. That is right.

The CHAIRMAN. Then, if they do sit in at the bargaining table with the unions under their jurisdiction, and actually bargain for those unions with respect to wages, grievances, hours of employment and conditions of work, then are they not actually getting the benefit of the Board and of the law and of its services without compliance?

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Mr. LEEDOM. I think my answer will involve a little explanation. The unions with which you say they may be sitting in and negotiating with may not under all of the conditions of your question, be in compliance themselves. They may not be seeking anything from the Labor Board. They may have shown the companies that they had a majority and the company recognized them and there was no occasion to come to the Labor Board.

The western conference may have sat in or may sit in with them. It has no occasion to come to the Labor Board and they would all be acting as labor organizations, but they would not have to comply under the way we administer the act because they are not asking anything of the Board. The sanction does not apply against them because they are not seeking anything.

The CHAIRMAN. Then, they are not required to file any financial reports, disclose how the funds are being expended, any funds that they may collect from their membership in the nature of dues, or part of the dues that is collected from a local union or by the local union. You mean they would not come under the jurisdiction of the act?

Mr. LEEDOM. Under the circumstances that I set out in my last answer they would not have to file any of the papers required by 9 (f), (g), or (h). But let me add this: If one of the unions or one of the locals that had admittedly been operating as a labor organization had filed a charge with the Labor Board and it appeared in that case that the Western Conference of Teamsters had been sitting in with the local in the union activity out of which the charge grew, and that came up in the record before us. I think I am right in saying that under some of our decisions we have handed down we would hold that the teamsters was a real party in interest as a labor organization and would require them under those circumstances to comply with 9(f), (g), and (h).

The CHAIRMAN. You would require the Western Conference of Teamsters to comply if the question was raised and you found they were performing services as defined here under "labor organization" in the statute?

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Mr. LEEDOM. And their affiliate was seeking something from the Board.

The CHAIRMAN. Their affiliate would be their local union?

Mr. LEEDOM. The local union would be before us seeking something, yes.

(Senator Symington entered the room.)

The CHAIRMAN. May I inquire, from your experience in administering this statute as a member of the Board and as chairman of the Board whether in your opinion such an organization does come now within the purview of the act?

Mr. LEEDOM. I would say that it is not clear that they do. I think the confusion that exists in that area of the law arises over the use of the words in section 9(f) of the act, where the filing is required of such labor organizations:

> and any national or international labor organization, of which such labor organizations and affiliate or constituent unit.

The specification there of national or international affiliates is required.

The CHAIRMAN. If this western conference is affiliated with a national organization, then would it not be required to file?

Mr. LEEDOM. Certainly, if it comes into the Board seeking anything as a labor organization, the primary one referred to in 9(f), we would require it.

The CHAIRMAN. Suppose that its unit local comes in seeking something. Do you mean that such an organization as the Western Conference is not now covered by statute?

(Senator Jackson left the room.)

Mr. LEEDOM. I would say it is not clearly covered, and, therefore, the interpretation of the act in the past does not reach it well. If it does not come in as the primary labor organization, it would not be required to comply clearly as an affiliate.

The CHAIRMAN. From your experience then, in administering the act, would you say that legislation is needed to clarify this and would you

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feel that such an organization should be required to register and make financial statements?

Mr. LEEDOM. Assuming that the Western Conference is a labor organization, which we have been doing this morning, and assuming that they are and assuming it was the intention of Congress to require all levels of organization under the act, then I would say that the act is not written clearly enough and the act is inadequate to reach them.

Senator SYMINGTON. Will the Chair yield there a moment?

The CHAIRMAN. I have just one additional thought: Would it enable you to administer the act more efficiently if that authority was clearly defined and such organizations were required to report?

Mr LEEDOM. Some clarification in this area would help the Board, I think, in determining what labor organizations are really required to comply.

Senator SYMINGTON. You said:

Assuming that the Western Conference is a labor organization.

I do not know anything about the Western Conference. In your opinion, is it a labor organization?

Mr LEEDOM. I really do not know, Senator, because we have never had any of its affairs brought before us officially and I never had occasion to inquire into them unofficially.

Senator SYMINGTON. Did you ever hear of the organization before?

Mr LEEDOM. Yes, I heard of it.

Senator SYMINGTON. What did you hear about it?

Mr LEEDOM. Well, I have heard that the Western Conference really controls all of the locals out in the 11 Western States.

Senator SYMINGTON. What do you mean by "locals"?

Mr LEEDOM. Local teamsters' unions.

Senator SYMINGTON. What do you mean by "control"?

Mr. LEEDOM. That they dictate policy and actually get in and bargain for them I don't mean to say that I believe this. I am telling you what I have heard. Officially, I have heard nothing. Unofficially I have heard this and other things about it.

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Senator SYMINGTON: Thank you, Mr. Chairman.

Mr. KENNEDY. In addition, you have received reports back over the last few days indicating the degree of control that the Western Conference exercises over these locals.

Mr. LEEDOM. I think that is right, Mr. Kennedy. I personally have not seen those reports.

Mr. KENNEDY. When we reach a conclusion on whether the Western Conference of Teamsters is or is not a labor organization, certainly those things have to be taken into consideration.

(Senator Jackson returned to the room.)

Mr. KENNEDY. To follow up what Senator Symington said, the reports that you do get show that they control or have a veto power over all of the locals operating in this area, that they sit down and negotiate contracts which are signed by the locals but are negotiated by the Western Conference, and that the pension funds are all administered by the Western Conference. You have 2 or 3 cases here, or at least 1 case in which the Western Conference signed a contract and you have another case in which the Western Conference stated:

The Joint Council of the Teamsters 37, General Teamsters Local 324, and Western Conference of Teamsters, for the purpose of this stipulation only, are labor organizations within the meaning of section 2, paragraph (5), of the act.

All of that evidence is available to the NLRB regarding the Western Conference of Teamsters.

Mr. LEEDOM. Yes; I think that you are right.

Mr. KENNEDY. Then, in answer to Senator McClellan and Senator Symington, regarding the question of whether the Western Conference of Teamsters should be required to register under the act, I would think that all of these things have to be taken into consideration. You said that you had no information and you just get rumors about the fact that the Western Conference of Teamsters might have this power. But in fact, if anybody looked into it, in the NLRB, they would find out that these facts exist.

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Mr. LEEDOM. I am willing to accept that. I think maybe that is true.

Senator SYMINGTON. Just to be sure that the record is clear, you say that you do not know, and you assume that the Western Conference is a labor organization, but you do not know that; is that correct?

Mr. LEEDOM. That is correct.

Senator SYMINGTON. The witness said he assumed that the Western Conference was a labor organization, but he did not know it, and I asked him if that was correct, and he said "Yes."

The CHAIRMAN. Let me ask counsel a question to clarify this.

What report did counsel refer to?

Mr. KENNEDY. When we first started to look into this question of the Western Conference of Teamsters, the NLRB was kind enough to get in touch with their offices throughout the western part of the country to find out what control the Western Conference of Teamsters had over the local unions and whether they took part in any negotiations, and these are reports that they have furnished to us.

In addition, there is another case that has also been furnished to us by the NLRB, where the Western Conference of Teamsters signed a contract, which is here, Senator. They have also assisted us by providing another case, in which the Western Conference of Teamsters in a stipulation stated that they were a labor union organization.

In addition, yesterday, I believe, in this discussion that you had with the chairman, it was stated that even though it is written specifically in the act that the local and the national or the international organization should register, under the interpretation of the act in the Highland Park decision of the Supreme Court in 1951, when you get information such as is available now on the Western Conference of Teamsters, you would get that intermediate organization to sign and to register with the Board. Is that not correct?

Mr LEEDOM. Yes.

Mr KENNEDY. So it is not just a national or international organization?

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Mr. LEEDOM. I think that I should amplify my answer on that a little. In checking our cases to try and get what our policy is, with respect to intermediate organizations, just yesterday afternoon and evening, I think that I can say that the policy is not very clear with respect to intermediate levels of organization between locals and internationals.

Now, the Highland Park decision has broad language to which some people point and say that this language clearly shows an intention to require all levels of labor organizations to file.

Mr. KENNEDY: Can I read that section into the record?

As the court of appeals from both the fourth and fifth circuits said, congressional purpose was to wholly eradicate and bar from leadership in the American labor movement, at each and every level, adherents to Communist Party and believers in the unconstitutional overthrow of our Government.

That applies to these financial statements, also.

Mr. LEEDOM. That is right, and I think that language is partly responsible for such policy as the Board has in certain types of cases to require intermediate levels of organization to comply.

The CHAIRMAN. The Chair hands you a photostatic copy of a document, and I will ask you to examine it and state whether the original is on file with the National Labor Relations Board and then state what the document is, and who signed it, and representing whom.

(Members present at this point: The chairman and Senators Jackson and Symington.)

Mr. LEEDOM. This exhibit that you have handed me is a photostat of an original that is on file with the National Labor Relations Board as an exhibit in a case pending before us. The original is an agreement between the teamsters' union and the Englander Co., and it is executed by an individual in behalf of the local union, and by another individual in behalf of the Western Conference of Teamsters. It is also executed by some individual in behalf of the employer.

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THE CHAIRMAN: Well, that is the photostatic copy of a document now on file with your Board?

Mr LEEDOM: That is right.

THE CHAIRMAN: That document will be made exhibit No. 1 Ex. for reference only at this time.

(Exhibit No. 1 Ex. may be found in the files of the subcommittee.)

THE CHAIRMAN: I will ask you if the Western Conference did participate in and sign that contract, has it been certified under the National Labor Relations Board or by the Secretary of Labor as a labor organization entitled to bargaining and bargaining rights?

MR. LEEDOM: It appears from this exhibit that the Western Conference executed the contract, and I know that the Western Conference has never been in compliance with the law at our Board. I cannot say what significance that contract has in determining the question as to whether or not they should be in compliance.

SENATOR SYMINGTON: I have never seen the paper that has been made a part of the record.

THE CHAIRMAN: I am not making it a part of the printed record. It is just for reference. I wanted it identified, and we might want to refer to it in further testimony.

SENATOR SYMINGTON: Is it in order for me to ask what it involves at this time?

THE CHAIRMAN: It is a contract, a negotiated contract for wages, and a regular bargaining contract.

MR LEEDOM: That is right. It is a contract that comes out of collective bargaining.

THE CHAIRMAN: I hand you another mimeographed copy of a document Will you examine that, and state whether the original of that document is on file with the National Labor Relations Board, and state what the document is?

MR LEEDOM: This is a mimeographed copy of a settlement agreement that was effected in two cases that were processed by our

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Board, or in process at our Board. It is a settlement agreement executed by the Western Conference of Teamsters.

Pardon me, I didn't see this. It is the Western Conference of Teamsters and a Joint Council of Teamsters and the company involved, and another company involved, and all of the parties involved in the dispute.

THE CHAIRMAN: That is on file with your Board?

MR. LEEDOM: That is right; it is on file.

THE CHAIRMAN: The original?

MR. LEEDOM: Yes.

THE CHAIRMAN: That will be made exhibit No. 2 Ex. for reference only.

(Exhibit No. 2 Ex. will be found in the appendix on p. 259.)

THE CHAIRMAN: I hand you another document, and ask you to examine it and state whether this document is on file with your Board, and what the document is. It is a photostatic copy of a document, I should say.

MR. LEEDOM: This is a photostatic copy of the memorandum from the regional director of our 21st region to Mr. McGuiness, in which he reports information concerning the Western Conference of Teamsters. It is dated January 9, 1957.

THE CHAIRMAN: Where is that on file?

MR. LEEDOM: That is on file in our offices.

THE CHAIRMAN: That may be made exhibit No. 3 Ex. for reference.

(Exhibit No. 3 Ex. will be found in the appendix on p. 262.)

THE CHAIRMAN: I hand you another document that I am unable to identify, but I ask you to examine it and state what it is, and whether it is a part of the official records and files of the National Labor Relations Board.

MR. LEEDOM: This is a copy of a telegram, the original of which is on file in our offices here in Washington. It is from the

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officer in charge of our subregional office in Denver, Colo., and it is directed to a Deputy Assistant General Counsel here in Washington, and it contains information concerning the Western Conference of Teamsters.

THE CHAIRMAN: That document may be made exhibit No. 4 Ex. for reference only at this time.

(Exhibit No. 4 Ex. will be found in the appendix on p. 263.)

THE CHAIRMAN: Now, I hand you here what purports to be four printed forms that I am advised that unions desiring to be certified or have a letter of compliance are required to file with your Board. Will you identify each of those, and as you identify them they will be marked "Exhibits 5A Ex., 5B Ex., 5C Ex., and 5D Ex."

(Exhibits Nos. 5A Ex., 5B Ex., 5C Ex., and 5D Ex. will be found in the appendix on pp. 263-267.)

MR. LEEDOM: Exhibit 5A Ex. is the form we have set up to be signed by union officers that are not Communists. That is 5A Ex.

Pardon me just a moment. I wonder if I could make a statement before Senator Symington leaves?

I am not sure that I understood the full significance of the question you asked me, Senator Symington, as to my assuming that the Western Conference of Teamsters is a labor organization. I answered you that I assumed they were.

SENATOR SYMINGTON: If I may interrupt the witness, first I would like to say that I am not leaving because of any lack of interest. I have 2 other hearings this morning, and I am trying to be present at 3 committees. Secondly, it was not my question, it was your statement. I know nothing about this situation except what I have read in the papers because it has not yet come before the committee. The exception to that is one meeting the committee had prior to this executive hearing.

But you advanced a statement, Mr. Leedom, in which you said that you assumed that it was a labor organization. I did not originate

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it, and I simply picked up your assumption. I wondered whether the Chairman of the National Labor Relations Board would want to go on the record with the assumption. If this organization is signing contracts with employers, it would seem to me that your knowledge of their position was more than an assumption, and you were the one that used the term.

MR. LEEDOM: Then I think that I had better explain on the record what I mean, because the Senator may have misunderstood.

SENATOR SYMINGTON: Do you want me to listen now?

MR. LEEDOM: I don't want to give any misinformation.

SENATOR SYMINGTON: I have just received a call and I am going to read the record.

MR. LEEDOM: I know that you have a lot of business to attend to, but I would like to keep the record straight and so I will make a statement.

SENATOR SYMINGTON: I will be back, but I will listen now.

MR. LEEDOM: When I said that I assumed the Western Conference of Teamsters was a labor organization, I related that answer wholly to the question you had asked me in which I thought you were drawing the assumption they were, and basing a question to me on that.

THE CHAIRMAN: I was basing the question upon information we have as to its activities, its functions, and what it is and what it is actually doing, and then to substantiate the assumption I made, based upon that information, I am introducing these documents in evidence to sustain the assumption or to make the direct proof.

MR. LEEDOM: I simply wanted to make it clear that I was not assuming as a matter of fact that the Western Conference is a labor organization. When I said that I assumed it, I meant that I was assuming it because I thought that is what you wanted me to do in answering your question.

THE CHAIRMAN: Well, you assumed it for the purpose of answering the question?

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MR. LEEDOM: That is correct.

THE CHAIRMAN: That is, the question that was directed to you?

MR. LEEDOM: Yes; and that is all I intended to say.

SENATOR SYMINGTON: May I say for the record that, to the best of my knowledge, this morning is the first time I have ever heard of the Western Conference in my life. I was simply asking the witness what he thought.

MR. LEEDOM: I am sorry I delayed you.

THE CHAIRMAN: The Chair may say that he did not hear of it until recently, but it seems to be a rather large organization, and a powerful one.

SENATOR SYMINGTON: I will be back, Mr. Chairman.

(At this point, Senator Symington withdrew from the hearing room.)

MR. LEEDOM: I am sorry to interrupt.

Now, exhibit 5B Ex. is our form No. 1080, which is the one we require of unions to show the titles of all of their officers and the names of the officers and other data concerning their tenure of office.

Exhibit 5C Ex. is our form No. 1085, which is the statement we require to be signed by officers of unions, to show that they have actually distributed their financial data among their members.

Exhibit 5D Ex. is our form 3054 which is a form we require of unions to show that they intend to file the required financial data, within the limits we have imposed by our rules, or the time limits we have imposed by our rules.

THE CHAIRMAN: Those may all be made exhibits as numbered for reference

(Exhibits 5B Ex., 5C Ex., and 5D Ex. will be found in the appendix on pp. 264, 266, 267.)

THE CHAIRMAN: Is there any further questions?

Gentlemen, those of you who were sworn, Mr. Kleeb, Mr. Kuskin, and Mr. McGuiness, do you have anything to add or any comment to make

upon the testimony that you have heard or can you give the committee any information that you think will be helpful to it in its work as outlined in the opening statement of the Chair?

MR. McGUINESS: I don't believe I have anything to add at this time, other than to say that I will be glad to answer any questions.

SENATOR JACKSON: There is one general question that I want to ask. In the light of the testimony here, and the information that has been brought out by reason of that testimony, is the NLRB contemplating legislation to be recommended to the Congress to give it authority in those areas where there appear to be gaps by reason of various judicial interpretations of the law that you are charged by law to administer?

MR. LEEDOM: No, sir; there is no plan of the Board to submit legislation or to submit a recommendation for legislation in this area.

SENATOR JACKSON: Of course, I take it that if the committee requests that you consider specific recommendations, you would be willing to do so?

MR. LEEDOM: We will be glad to cooperate in any way in furnishing the benefit of our experience.

SENATOR JACKSON: Do you feel that the gaps that appear as a result of this testimony should be covered by recommendations from the Secretary of Labor?

MR. LEEDOM: As between his office and ours; I think that they should come from his office.

SENATOR JACKSON: And it is for that reason, then, I take it, that you are really *not recommending legislation*?

MR. LEEDOM: It is my own personal view that we are there to administer the law, and not to choose sides as to what the law should be, and it is more appropriate that it be someone else's function to make such recommendations.

THE CHAIRMAN: I take it from your testimony that you do agree with the chairman of this subcommittee, at least, that there are loopholes and areas that need clarification?

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MR. LEEDOM: Yes; that is a correct statement.

THE CHAIRMAN: In order for the law to be efficiently, or more efficiently administered?

MR. LEEDOM: I think that is right.

THE CHAIRMAN: And clearly to define what the responsibility of the Board is with respect to reviewing or examining into reports filed before it upon which it bases action as to their veracity and accuracy?

MR. LEEDOM: Yes. I am repeating, but if it is the desire of Congress to achieve the objective of denying the services of the Labor Board to unions who do not make honest and truthful revelations as to their financial activities, then the law isn't adequate to reach that.

THE CHAIRMAN: It is not adequate now to reach that?

MR. LEEDOM: That is right.

THE CHAIRMAN: Would you not think that would be a good objective of the Congress?

MR. LEEDOM: It seems all right to me. That would be a more pertinent question if I were in Congress.

THE CHAIRMAN: You think that it should be pertinent to a Congressman?

MR. LEEDOM: That is right.

THE CHAIRMAN: Are there any other questions?

SENATOR JACKSON: In all candor, do you not feel that you are in a better position to determine whether or not there is a need for that legislation because of your knowledge of the problems? Our knowledge of it stems from a short hearing but you live with it from day to day. Should not the burden be on your department, with all due respect, to advise the Congress whether or not such legislation is needed?

MR. LEEDOM: I think that the problem, the basic problem, goes beyond the details of our activity. In the first place, you have to give consideration to how much of a policeman you want to make of the Labor Board. Now, our primary function is to conduct elections, and settle

unfair labor practice charges.

SENATOR JACKSON: Just let me say this: I might not have made myself clear, but I can well appreciate that you would like to correct the loophole that Senator McClellan has referred to in connection with the filing of non-Communist affidavits and financial statements. But your opinion is that the administration and the policing of that probably ought to be done by the Department of Labor. But you would not deny the responsibility on your part to call attention to the Congress of the fact that this thing does exist. That is my point.

MR. LEEDOM: No; that is right. But you get into a serious question as to whether they want the Labor Board to do that. That involves an expenditure of a tremendous amount of money.

SENATOR JACKSON: I assume it is your offhand judgment that you should continue in your present function of dealing with the cases which come before you in a quasi-judicial capacity, and not get into the auditing and the policing, leaving that to some other agency of the Government. You do feel, however, that there is that need in order that your Department can function more effectively?

MR. LEEDOM: That is right. I think that there is a serious question as to whether the Labor Board should have that extra burden.

SENATOR JACKSON: It is a question of jurisdiction?

MR. LEEDOM: Yes.

THE CHAIRMAN: That really is not the issue before us, as to who should be charged with the administration of any changes in the law.

MR. LEEDOM: Except that bears on the adequacy of the labor law. Maybe we shouldn't have any greater burden than to do what we do, and maybe someone else should have that.

THE CHAIRMAN: The basic question is, should there be changes in order to improve the efficiency of Government. Now, Congress decides to what agency it will delegate the authority to carry out any change in the act that it may in its wisdom pass. It is not a question be-

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fore us now as to which agency shall do it. The question is, fundamentally, should it be done?

MR. LEEDOM: That is right, should it be done, and apparently it should. Then the question is, do you amend the Labor Act or make another law.

THE CHAIRMAN: Thank you very much, and I appreciate your cooperation. You have been very helpful.

MR. LEEDOM: Thank you, sir.

THE CHAIRMAN: Gentlemen, will you please stand?

Do you and each of you solemnly swear that the evidence you shall give before this Senate investigating subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

SECRETARY MITCHELL: I do.

MR. ROTHMAN: I do.

TESTIMONY OF HON. JAMES PAUL MITCHELL, SECRETARY OF LABOR; AND STUART ROTHMAN, SOLICITOR OF THE DEPARTMENT OF LABOR

THE CHAIRMAN: Mr. Secretary, will you state your name, your place of residence, and your official position?

SECRETARY MITCHELL: James P. Mitchell, 3601 Connecticut Avenue, Washington, D.C., Secretary of Labor.

THE CHAIRMAN: Will you state your name, and residence, and your official position, please, in the Government?

MR ROTHMAN: Stuart Rothman, 4474 Salem Lane Northwest, Washington, D.C., Solicitor of the Labor Department.

THE CHAIRMAN: Mr. Secretary, how long have you been Secretary of Labor?

SECRETARY MITCHELL: Three and one-half years, approximately.

THE CHAIRMAN: During that period of time, I am sure that you have become wholly familiar with your duties and responsibilities in your office.

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SECRETARY MITCHELL: I hope so.

THE CHAIRMAN: This committee is inquiring into some matters that have come to its attention that in its opinion may have an impact upon the efficiency and the economy of Government. The Chair read into the record a preliminary statement as to the purpose of these hearings. If you have not read it, there is a copy of it before you, and I do not believe you were here. It gives you the general background or outline of the objectives of this series of hearings.

We wanted to inquire of you with respect to some aspect of your duties and the administration of laws under your administration.

Will you please state, first, what reports or information labor organizations under existing law are required to file with the Department of Labor?

SECRETARY MITCHELL: Mr. Chairman, under the Taft-Hartley Law, the Department of Labor is the custodian of certain reports that are filed by labor organizations. This report contains the name of such labor organization and the address of its principal place of business; and the names, titles, and compensation and allowances of its three principal officers and of any of its other officers or agents whose aggregate compensation and allowances for the preceding year exceeded $5,000, and the amount of the compensation and allowances paid to each such officer or agent during such year. The law also requires the delineation of the manner in which the officers and agents referred to in clause 2 above are elected, appointed, or otherwise selected. It must also contain a statement of the initiation fee or fees which new members are required to pay on becoming members of such labor organization, and it must contain a statement of the regular dues or fees which members are required to pay in order to remain members in good standing of such labor organization.

The report also must contain a detailed statement of, or reference to provisions of its constitution and bylaws showing the procedure

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followed with respect to qualification for or restrictions on membership, election of officers and stewards, calling of regular and special meetings, levying of assessments, imposition of fines, authorization for bargaining demands, ratification of contract terms, authorization for strikes, authorization for disbursements of union funds, audit of union financial transactions, participation in inusrance or other benefit plans, and the grounds for expulsion of members.

The report shows also receipts of any kind, and the source of such receipts, and the total assets and liabilities at the end of the fiscal year, and the disbursements made by the union during the fiscal year, including the purposes for which it shall be made.

That is the nature of the report filed with the Department of Labor, of which we are the custodians.

THE CHAIRMAN: May I inquire if all of these requirements are essential and prerequisite to a labor union or organization being given a letter of compliance, or a certificate that would entitle it to the services of the National Labor Relations Board?

SECRETARY MITCHELL. This is essential to such certification.

THE CHAIRMAN: All of that is essential?

SECRETARY MITCHELL: Yes.

THE CHAIRMAN: As I understand, they first have to file, at the time of organization or subsequent thereto, if and when they desire the services of the National Labor Relations Board, these reports with you? That is a financial report and the other things that you have enumerated.

SECRETARY MITCHELL: That is right.

THE CHAIRMAN: And annually they have to file a financial statement; is that correct?

SECRETARY MITCHELL: Yes, sir.

THE CHAIRMAN: Now, if they fail to file an annual statement, would they then be ineligible for the services of the National Labor Relations Board?

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SECRETARY MITCHELL: On failure to file; we immediately notify the National Labor Relations Board and that Board takes action in accordance with the law, which prohibits them from having status before the Board.

THE CHAIRMAN: What action do you take to notify the National Labor Relations Board that a union or labor organization is in compliance?

SECRETARY MITCHELL: We notify them upon the receipt and upon the checking of the document, and we notify the union that it has filed its report in the form prescribed by the Government for the fiscal year.

THE CHAIRMAN: You do not notify the Board directly, do you?

SECRETARY MITCHELL: The union, as I understand it, certifies to the Board that it has such a document from us.

THE CHAIRMAN: In other words, the document of certification or acknowledgment of compliance, in whatever form it is, I believe it is in the nature of a postcard, is it not?

SECRETARY MITCHELL: I have it before me; yes, sir.

THE CHAIRMAN: Will you file that postcard as exhibit 6 Ex. for reference only, at this time?

(Exhibit No. 6 Ex. will be found in the appendix on p. 268.)

SECRETARY MITCHELL: Yes, sir.

THE CHAIRMAN: We would like to have it to refer to later.

Then, if I understand you, that is the only action taken by the Department of Labor on the compliance of a union or labor organization?

SECRETARY MITCHELL: As I understand it, that is right.

THE CHAIRMAN: There is no direct certification that goes from the Secretary of Labor to the National Labor Relations Board?

SECRETARY MITCHELL: That is correct.

MR. ROTHMAN: I understand that is the way it is now.

THE CHAIRMAN: Gentlemen, you say you understand that is the

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way it is done. It is the way it is done.

SECRETARY MITCHELL: That is right.

THE CHAIRMAN: Then, may I inquire whether a labor union is in compliance under existing law today if it files a false and fraudulent financial statement?

SECRETARY MITCHELL: The financial statement may be in fact false and fraudulent, but in accordance with the statute as it is now written the Government has no means of determining that it is false and fraudulent financial statement might be filed and a union might be in compliance with the present law.

THE CHAIRMAN: In other words, the filing of a statement, even if it is filed willfully and knowingly that it is misleading and false and not accurate, does under existing law, in your opinion, place that union in compliance?

SECRETARY MITCHELL: Yes, sir; because the existing law requires the Secretary of Labor merely to be the custodian of the document filed.

THE CHAIRMAN: It has no administrative function other than to accept the documents, retain them as a depository, and certify or issue a communication saying that they are in compliance?

SECRETARY MITCHELL: We issue a communication saying in effect that the provisions of the law have been complied with by the union and, therefore, they are in compliance.

THE CHAIRMAN: Do you regard now, under existing law, that the Department of Labor or the National Labor Relations Board has any authority to challenge a financial statement of a union or labor organization filed pursuant to law, notwithstanding it may appear to be false or fraudulent?

SECRETARY MITCHELL: The only authority we have to challenge the financial statement as the law now reads is if the union has failed to answer any of the questions that may be on the form. We have no authority to challenge the accuracy or validity of that information.

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THE CHAIRMAN: So one union, one set of union officials or an organization may come in and file honest and truthful reports and receinve the benefits of the services of the National Labor Relations Board, and another union under present law can file a false and fraudulent statement and receive the same benefits?

SECRETARY MITCHELL: That is correct.

THE CHAIRMAN: Even if you, as Secretary, should know them to be false under present law, you have no power or authority to deny certification or issuing a statement of compliance?

SECRETARY MITCHELL: That is true, except that where we have had occasion through information given to us to question the accuracy of the statement, we have, from time to time, referred that matter to the Department of Justice for whatever criminal action may be required under the Criminal Code. We, ourselves, have no authority to do that.

THE CHAIRMAN: You have no authority. In the course of long drawn-out litigation, it if does ensue, in the nature of a criminal action or a prosecution, that union would still remain in compliance and would be entitled to all of the services of the National Labor Relations Board, notwithstanding the falsity of its report?

SECRETARY MITCHELL: Yes, sir. I might say this: Mr. Chairman, we are the custodians of some reports of some 39,000 unions. I want to say for the record that the honest and good unions which you mentioned predominate.

THE CHAIRMAN: And there are many of them, and they do predominate in my judgment.

SECRETARY MITCHELL: I would judge that the great majority of the financial reports we get are factual presentations.

SENATOR JACKSON: Following the line of questioning you have engaged in a moment ago, Mr. Secretary, what happened to these cases that were referred to the Department of Justice? Do you know whether there were effective prosecutions?

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SECRETARY MITCHELL: I do not know.

SENATOR JACKSON: May I ask you this question: Do you know whether or not any union or union official has been convicted of filing false financial statements?

SECRETARY MITCHELL: Not to my knowledge.

SENATOR JACKSON: Do you have any information on that, Mr. Solicitor?

MR. ROTHMAN: Not to my knowledge, to the best of my knowledge it has not occurred.

SENATOR JACKSON: Has the Department recommended any legislation or is the Department in the process of recommending legislation to fill this void or to close this loophole?

SECRETARY MITCHELL: At the moment, Senator, we are reviewing at the President's direction the whole Taft-Hartley law for the purpose of making recommendations to him, which subsequently will be made to Congress for amendment to the law. As the President stated in his state of the Union message, he proposes to send to Congress at some subsequent date amendments to the Labor Management Relations Act. Of course, in our review, certainly this section is one of those that we would consider and review as to whether we should make recommendations or not.

SENATOR JACKSON: You are giving consideration to this situation?

SECRETARY MITCHELL: To this and others; yes, sir.

SENATOR JACKSON: Among others?

SECRETARY MITCHELL: Yes, sir.

SENATOR JACKSON: If I understand this testimony correctly, Mr. Chairman, I do not quite understand what purpose is achieved at the present time by the filing of these statements other than to build up a large archives division within the Department of Labor. I am told that the information that is filed with the Department of Labor is not public information. The public does not have the right to see any

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of these reports.

SECRETARY MITCHELL: That is correct.

SENATOR JACKSON: I am not trying to be facetious, but in light of the court decisions, and so on, what possible purpose is achieved in pursuing the present procedure?

SECRETARY MITCHELL: May I say this, Senator, that we set forth the regulations in the implementation of that section of the law, and we took into account and our predecessors have taken into account the apparent legislative intent of Congress when this was passed. It was clearly the legislative intent of Congress at the time that these reports not be made public and that they be made available only to the appropriate committees of Congress.

SENATOR JACKSON: I understand that part, but I am merely, again, asking a question. I am not saying you have misinterpreted the law, and do not misunderstand me, but I am trying in my own mind to understand what purpose is achieved by this procedure.

SECRETARY MITCHELL: I think the purpose that Congress visualized was that members of the union would have available to them a financial report of the union with which they were associated.

SENATOR JACKSON: Do you not think Congress also visualized that the union be given an accurate and honest report and not just a report or fictitious report?

SECRETARY MITCHELL: I would assume that that was inherent.

SENATOR JACKSON: That is the whole purpose, because just to comply perfunctorily with the provision of law that there be a report is not adequate.

In that connection I was wondering why some reference was not made on this form -- is the form R-1?

THE CHAIRMAN: Let the witness identify the form and we will make it an exhibit. We will make it exhibit No. 7 Ex. for reference.

(Exhibit No. 7 Ex. will be found in the appendix on p. 268.)

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SECRETARY MITCHELL: I have before me the form, Bureau of the Budget No. 44-R700, labor organization registration form, under Public Law 601, 80th Congress, and this is the form that is used in filing in the Department of Labor.

SENATOR JACKSON: It is also referred to as form R-1?

SECRETARY MITCHELL: You may have a different one. This is approved July 1, 1946.

SENATOR JACKSON: Yes. It is also identified as form R-1.

I note in reading through the form that the only reference to the statute or laws involved is in the first paragraph of the form. It occurred to me that there should have been some reference to title 18, section 1001, the False Statement Act. In other words, that anyone who signs this, although not signing before a notary, nevertheless signs it with full knowledge of title 18, section 1001. I just make that suggestion.

SECRETARY MITCHELL: It is a very good one.

SENATOR JACKSON: The point being that most statements are filed under oath. Perhaps not most, but it is not unusual, Mr. Chairman, that they be filed under oath. Someone might be led to believe that he is not under oath when he files the statement for purposes of the statute I referred to. At least it involves a criminal penalty to file a false statement.

(At this point Senator Symington entered the hearing room.)

THE CHAIRMAN: Pursuing the questions asked you by Senator Jackson as to what purpose such reports serve, if they serve no other purpose than to merely get the information disseminated to the members and there is no way to compel them to be accurate or truthful, then they serve a harmful purpose if misleading information and false information is disseminated to the members regarding the financial status?

SECRETARY MITCHELL: In the case of a deliberately dishonest union official; yes, sir.

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THE CHAIRMAN: That would be true, would it not?

SECRETARY MITCHELL: Yes.

THE CHAIRMAN: Now, if one can file an honest report, and another can file a false report, and there is no way to check and to compel compliance, and I mean compliance in its proper sense, then that is an imposition on the honest official, is it not?

SECRETARY MITCHELL: I think so.

THE CHAIRMAN: And also on the Government?

SECRETARY MITCHELL: Yes, certainly, the filing of a dishonest report is an imposition on the Government.

THE CHAIRMAN: And yet we have the requirement of law as of today, but no policing of it?

SECRETARY MITCHELL: No policing of it, sir.

THE CHAIRMAN: Would you think it would add to or improve the efficiency of Government if we could take some action by legislation or administrative action to ascertain that the forms and the information are accurate and truthful?

SECRETARY MITCHELL: I would think that if such action were desirable, it would have to be by legislation because administratively, I think, the law is being complied with as it is now written. The question arises certainly as to the general premise of insuring some inspection or developing some inspection mechanism to insure accuracy of these reports. I will have to say that is a desirable objective. There are some very big administrative problems that arise that I can think of. There are some, as I said before, 39,000 unions which file with us.

As I said before, I would think that the vast majority of them are honest reports. The mere job of investigating 39,000 reports annually would be a terrific one. Perhaps some way could be found, and offhand I can't think of one, in which the dishonest, fraudulent reports could be discovered.

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THE CHAIRMAN: Even if we had some procedure or policy like the Internal Revenue Bureau, for instance, it cannot possibly examine and audit all of the millions of income-tax returns. But it can and does make spot checks, and certainly in an instance where it may appear on the face of the report or document that it is inaccurate or untruthful, they can immediately look into it.

SENATOR SYMINGTON: Will the Chair yield?

Mr. Secretary, is there no law on this? I want to be sure I understand this, and I have signed a good many labor contracts. I wondered if there is a law which would punish a man for filing a dishonest return, but there is no way of finding out whether the return is dishonest. Is that correct?

SECRETARY MITCHELL: That is correct. The man may be punished for filing a dishonest or fraudulent return by the operation of the criminal statutes. But that would have to come about by virtue of a complaint and a court prosecution and so on. We have no way of administratively determining whether these reports are correct or not.

SENATOR SYMINGTON: May I proceed, Mr. Chairman?

In other words, whereas in income-tax filing of monetary matters there is a very complete method for investigation providing an investigation is considered warranted; in this case, after the filing of the report in question, there is no such plan whatever?

SECRETARY MITCHELL: There is no authority for any Government agency to do so.

SENATOR SYMINGTON: Thank you.

THE CHAIRMAN: May I inquire about this: I have, since some publicity was given to this preliminary inquiry that the committee has been conducting, received letters from members of labor unions, and in one instance I recall specifically he complained about the affairs of the union and the way they were being handled. He said that they had not had an election of officers for 25 years. If they could even get an election of officers, he said, they could clean house themselves.

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Would you comment upon the law with respect to the election of officers of labor unions?

SECRETARY MITCHELL: There is nothing in the law which compels a union to hold elections at specified periods. Most of the unions hold regular elections in accordance with their own constitutions.

THE CHAIRMAN: I am not saying this report to me is true. I do not know.

SECRETARY MITCHELL: To my knowledge, most of the American unions, in accordance with their constitutions, hold not only local elections regularly, and periodically, but national organizations hold elections once every year, and sometimes once every 2 years, and some every 4 years for national officers.

THE CHAIRMAN: Well, I did not know. I am not saying that the report to me was true. I do not know. But it would seem to me that that is a bad situation. That would be true if it existed anywhere.

Now, may I ask you another question regarding these false reports? When a labor union is organized, a local, we will say, it has to make a report, does it not, naming its officers and the number of members and the dues charged, and so on?

SECRETARY MITCHELL: Yes, sir.

THE CHAIRMAN: If a report is filed stating that a local has been organized, and the information therein is false both as to the officers, as to the dues collected, as to the membership, and so forth, and even though no such local actually exists and it is just a paper organization, do you have any authority now to look into that and to inquire into it and find out if it is actually a bona fide union?

SECRETARY MITCHELL: No, sir.

THE CHAIRMAN: In other words, if there are racketeers and hoodlums that have infiltrated into some unions, or desire to just set up a paper union and operate as such, after having filed a false and fictitious and fraudulent report to you of that organization, you cannot

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now under the law inquire into it even to determine whether that is a bona fide union?

SECRETARY MITCHELL: That is right, sir.

THE CHAIRMAN: And it is your practice to simply, upon the compliance in form with the law, submitting information, whether accurate or truthful or not, issue them a letter of compliance?

SECRETARY MITCHELL: That is right.

THE CHAIRMAN: Are there any further questions?

SENATOR SYMINGTON: I would like to ask this question, Mr. Secretary: I read in the papers about some locals in New York that have no members. Do you know anything about that?

SECRETARY MITCHELL: I have read in the papers about that.

SENATOR SYMINGTON: That is all you know about that?

SECRETARY MITCHELL: That is all I know about it.

SENATOR SYMINGTON: Would you care to comment upon it, that is, from the standpoint of your experience in the labor movement?

SECRETARY MITCHELL: As to the general practice, it is unusual. Certainly the great bulk of American trade unions are reputable organizations and devoted to the welfare of their members. Unquestionably there have been racketeers and hoodlums, as the chairman has said, who have latched onto labor movements for their own personal gain. I am sure that the legitimate labor organizations would welcome any assistance that Government can give them in getting rid of these barnacles

I think that such an investigation as this committee is conducting is healthy and will be constructive if it recognizes, as I am sure it does, the fact that it is directing its attention at the racketeering hoodlum who has become a part of the labor movement against the desire and wishes of most of the trade-union leaders.

Such an investigation would be very constructive and welcomed, I am sure

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To answer your specific question, the existence of these paper locals, as you say in New York, is not a common circumstance.

SENATOR SYMINGTON: I appreciate what you say, and I was very interested in your thought-provoking remarks. But I was wondering more about the technical aspect of it. Why would you have a union that did not have members?

SECRETARY MITCHELL: Well, I don't know. There may be other purposes that the organizers of such unions have, which I do not know about.

SENATOR SYMINGTON: Nobody has more respect for unions than I have and in my opinion the workingman is benefited by belonging to a union. There would be variations to that, of course. But certainly an employer would pay more under the pressures of collective bargaining than he would as an employer without it.

I, voluntarily, in my companies, gave union shop, and checkoff, while the man had a right to withdraw the request if he put it in writing, and so forth. I am a complete sympathizer with the idea that a man has a right to bargain collectively. But I cannot understand a union without members. That was my point in questioning you, based on your private experience and as a Government official in this field. I was just wondering about the technical feature of having the union without members.

SECRETARY MITCHELL: One reason could be, Senator, a shakedown. The existence of a "union" might enable the racketeer who was so engaged to walk into an employer and say "I have got a union, and I represent union so and so and you can buy protection against my union if you pay me off."

THE CHAIRMAN: We have found just such occurrences, Mr. Secretary, I might say, in New York, in connection with the Government procurement of textiles and uniforms. That is what opened our eyes a bit, and I would like to comment a little along the lines of your statement that an investigation of this character, which is conducted

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properly, would be healthy.

Would it not also likely contribute to the discovery in existing law of those loopholes that need to be corrected?

SECRETARY MITCHELL: It would go a long way toward doing so; yes, sir.

THE CHAIRMAN: And you agree, I am sure, with this committee, that it should be the objective of the Congress who makes the laws, and of the executive officials who administer the laws, to enact laws and to administer them so as to apply equitably and fairly to all who are subject to them?

SECRETARY MITCHELL: Yes, sir.

THE CHAIRMAN: And the present law does not do that, as it is interpreted and as it is administered, in that it receives from one applicant honest and truthful reporting, and from another it may not?

SECRETARY MITCHELL: That is right, sir.

THE CHAIRMAN: And, therefore, there is an inequity that is not policed or corrected today?

SECRETARY MITCHELL: I would say so; yes, sir.

THE CHAIRMAN: And does not the very fact that some unions or officials, and a great minority, I might say, as you have emphasized, do get by with those things, become unfair and an imposition on the honest union official who reports?

SECRETARY MITCHELL: It has all of the inequities; yes, sir.

THE CHAIRMAN: And if we are going to have a law of this kind, we should have it, as I have said, such that it will apply in its terms and in its letter and spirit equitably to all who come within its jurisdiction, and it can be so administered, or have the authority to so administer it.

SECRETARY MITCHELL: I would agree to that.

THE CHAIRMAN: I wish to say for the record there has been some comment made here that good labor unionism suffers. Reflections

are often cast upon the whole labor organization movement by reason of these incidents that occur. We are speaking of racketeers getting a hold or people filing false returns, and so on. It is bound to reflect upon the whole organization, and if we can eliminate that then we are actually rendering a service to the labor movement and to labor as an organization or institution. Would you agree with that?

SECRETARY MITCHELL: I agree with that; yes, sir.

THE CHAIRMAN: I wish to say that so far as the Chair is concerned, I echo the sentiments of every member of this committee that that is the objective of this investigation, to try to do just that, and not to reflect upon or to do any harm or injury to unions that are operating in compliance with the law, but try to reach those who are apparently beyond the pale of it now and who are taking advantage of it. Are there any other questions?

SENATOR SYMINGTON: Mr. Chairman, I would like to say on the record that I am very much impressed with the forthright presentation of the problem as the Secretary of Labor sees it. In my opinion, that type and character of talk in the executive branch not only is an asset to labor and to business but is an asset to the country.

SENATOR JACKSON: I can understand why he was so effective in labor-management relations, which he has been in for many years.

SECRETARY MITCHELL: Thank you.

SENATOR JACKSON: I think that you are very candid and open about it.

THE CHAIRMAN: I can say for the record that the staff has reported to me that it has received complete cooperation from your Department in this preliminary inquiry, and you were kind enough to come up to my office for a conference with members of your staff. The Chair appreciates that.

Mr. Rothman, did you have anything to add to what the Secretary has said?

MR. ROTHMAN: No, sir.

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THE CHAIRMAN: Thank you very much.

MR. ROTHMAN: I will be available to help at all times.

THE CHAIRMAN: Will you come around, Mr. Winkle and Mr. Barnes, please?

Gentlemen, will you be sworn? Do you and each of you solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. WINKLE: I do.

MR. BARNES: I do.

TESTIMONY OF JUSTIN F. WINKLE, ASSISTANT COMMISSIONER OF INTERNAL REVENUE (TECHNICAL): AND JOHN P. BARNES, CHIEF COUNSEL OF THE INTERNAL REVENUE SERVICE

THE CHAIRMAN: Mr. Winkle, will you state your name and your place of residence and your official position with the Government?

MR. WINKLE: My name is Justin F. Winkle, Assistant Commissioner of Internal Revenue, in charge of technical activities.

MR. BARNES: John P. Barnes, Chief Counsel, Internal Revenue Service.

THE CHAIRMAN: How long, Mr. Winkle, have you been Assistant Commissioner of Revenue, and also how long have you been in the Revenue Service?

MR. WINKLE: I have been in the Government service since 1927, and in the Revenue Service since 1934, and I have been Assistant Commissioner of Internal Revenue in this and in other capacities since September of 1951.

THE CHAIRMAN: Mr. Barnes, how long have you been with the Department? Would you give a résumé of your Government service?

MR. BARNES: Mr. Chairman, I have been Chief Counsel since May 9, 1955. Prior to that, from about January 1, 1928, until May of 1933, I was an attorney in the Chief Counsel's Office. It was then

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called the General Counsel of the Bureau of Internal Revenue. For 2 years I was Assistant Legislative Counsel of the Senate, from 1926 to 1928.

MR. KENNEDY: Mr. Winkle, under the statutes, labor unions are tax exempt; is that correct?

MR. WINKLE: Labor unions are tax exempt under a provision of the Internal Revenue Code.

MR. KENNEDY: Do you have the right under the law to audit the books of these tax-exempt organizations?

MR. WINKLE: We do, sir.

MR. KENNEDY: Could you tell the committee how often those audits take place and discuss just briefly the practical problems that you feel that you face?

MR. WINKLE: I think the practical problem that we face in this field is one associated with the volume of returns and other work the Revenue Service is called upon to perform each year, as contrasted with the resources that we have, manpowerwise particularly, to do that job. We get in a grand total of some 60 million income tax returns and a total of about 84 million returns of all varieties each year. Manifestly it is impossible for us to audit all of the returns. Many of them, of course, require little or no audit because of the withholding system.

So that the objective of the Service is to attempt to accomplish a balanced program of enforcement by putting its manpower to the greatest extent feasible in those areas where experience has demonstrated there is the greatest potential of tax error.

Coupled with that, we attempt to do a certain amount of work in other areas for tax enforcement purposes. As to organizations that are exempt from income tax, and the great bulk of them we feel are properly exempt since the exemptions include churches and schools and hospitals and the like, the Service is confronted in that area with

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the problem of how much of its manpower it should devote to exempt organizations; that is, the potential for deficiencies may certainly be there, but may not be there to the same extent that it is in the case of the ordinary taxable organization.

I think it is a fair statement to say that while we attempt to do as much audit work in the exempt-organizations area as we can, we do not do as much as we would like to if we had the resources.

MR. KENNEDY: Would you say therefore that the degree that you examine or audit tax-exempt labor unions is very small and very slight?

MR. WINKLE: I would say on a comparative basis, it is very small; yes, sir.

MR. KENNEDY: Do you think it takes place at all?

MR. WINKLE: I know for a fact that there are some investigations underway right now, for example. Now, how they would stack up in contrast to the total number of labor organizations, I don't know. But to answer your question, yes, there is some of it done; but I think it would be very little in relation to the entire problem.

MR. KENNEDY: What about the question if it is brought to your attention that there was an embezzlement or misuse of union funds by those in charge of these tax-exempt organizations? Would you feel that was something that would be of interest to you and that you would want to take some action?

MR. WINKLE: Might I ask Mr. Barnes, the Chief Counsel, to comment on that?

MR. BARNES: Well, there is some difficulty there in this respect: Embezzled funds are probably not income under the decisions.

MR. KENNEDY: I am talking about as far as the union itself is concerned, and not as far as the officer is concerned. As far as the union itself is concerned being tax exempt, would you take any action or would you be interested in learning that these tax-exempt moneys are going or inuring to the personal benefit of some union official?

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MR. BARNES: I think we would be interested, certainly.

MR. KENNEDY: Would that have any effect on the tax-exempt status of the organization?

MR. BARNES: The regulations under the 1939 code provided and probably will provide under the new code, that one condition of the exemption of a labor union is that no part of the net income shall inure to any member. Now obviously, that is one point that we are concerned with, and that may have an effect on the status of the labor union.

MR. KENNEDY: Have you taken any action under that regulation of the Internal Revenue Code?

MR. BARNES: Not to my knowledge. I have checked within the available time, and I do not find that we have, so far as the Chief Counsel's Office is concerned.

THE CHAIRMAN: May I ask a question at that point? I think that I am clear on it in view of our conference in my office a day or two ago. If a labor union official or the union reporting on its financial report, or annual report -- if the disclosure of the amount of compensation and allowances are fraudulent or false as to the officers' compensation, would you not be interested in checking the records of that labor union to ascertain the extent to which the officer was defrauding the Government on his income tax?

MR. BARNES: We certainly would, sir.

THE CHAIRMAN: Do you have that authority now to do so?

MR. BARNES: We do have authority to check under the law and the regulations.

THE CHAIRMAN: Can you get the records of the labor union for that purpose?

MR. BARNES: If the law is followed, we think we can.

THE CHAIRMAN: Have you had any trouble in the past in getting those records for that purpose?

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MR. BARNES: Yes, there is a case pending right now, at least it was decided recently by the Court of Appeals for the Ninth Circuit.

THE CHAIRMAN: Was it decided that you could get the records or that you could not?

MR. BARNES: It was decided that under the statute where the labor union resisted our proceeding in the district court to enforce the subpena issued under the revenue act, that the district court had to determine whether the records of the union which had been requested were both relevant and material to the determination of the liability.

THE CHAIRMAN: You were denied?

MR. BARNES: We were denied.

THE CHAIRMAN: That case I understand is, or may be, on appeal.

MR. BARNES: We hope it will be appealed.

THE CHAIRMAN: You have requested it be appealed but that addresses itself to the Department of Justice.

MR. BARNES: Yes, sir.

THE CHAIRMAN: And all you can do is request?

MR. BARNES: That is correct.

THE CHAIRMAN: You do not know at this time whether or what action will be taken on the request?

MR. BARNES: No, sir.

THE CHAIRMAN: Let me ask you, if that decision stands, are you handicapped then in getting the information necessary to check on a false income-tax return under those circumstances?

MR. BARNES: If it stands, and it should be accepted by most of the courts of appeal, we would be definitely handicapped.

THE CHAIRMAN: You would be definitely handicapped?

MR. BARNES: Yes, sir.

THE CHAIRMAN: With respect to an individual, do you have the authority now to compel him to surrender his books and records to check on his income tax?

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MR. BARNES: We have the statutory authority, Mr. Chairman, but there is still a doubt as to how far he is protected by the fifth amendment, the provision against self-incrimination. That question is in a state of indecision, and won't be resolved unless it gets to the Supreme Court.

THE CHAIRMAN: You may get it unless he is protected under the fifth amendment?

MR. BARNES: That is right.

THE CHAIRMAN: But, when you want the records of a firm or some other business agency to check on the amount of its payments to someone else who may have filed a false return, you do have the authority and power to get those records?

MR. BARNES: Yes sir.

THE CHAIRMAN: There is no question about that?

MR. BARNES: No.

THE CHAIRMAN: But as to a labor union, this case that you referred to held that you could not get them but the court could make a determination as to whether they were pertinent or not?

MR. BARNES: But that would apply to any third party, from whom we were trying to get information in order to check on the taxpayer.

THE CHAIRMAN: If this court decision stands, that that is the law, as it is now, then you are seriously handicapped in making checks that you would have to make from time to time not only on individuals but also upon corporations, and labor and tax-exempt organizations?

MR. BARNES: In my opinion, yes, sir.

MR. KENNEDY: You would feel, I take it, that the tax-exempt status is a privilege rather than a right, isn't that correct?

MR. BARNES: I do.

MR. KENNEDY: And that therefore that the tax-exempt organizations such as a labor union should have a greater responsibility for making these books available when they enjoy this privilege?

MR. BARNES: Yes, sir, I do.

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MR. KENNEDY: Is there any provision in the law, or in your regulations concerning how long these organizations have to keep their books and retain their books?

THE CHAIRMAN: That is tax-exempt organizations, you mean?

MR. KENNEDY: Yes.

MR. BARNES: The provision of the regulation is somewhat indefinite. May I read it?

> The books and records required by this paragraph shall be kept at all times available for inspection by internal revenue officers, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

THE CHAIRMAN: How far back do you have the right to go now, in checking?

MR. BARNES: Three years ordinarily, sir, in the absence of fraud or exceptional circumstances.

THE CHAIRMAN: Under that you say it is a little indefinite, but they should at least keep them for 3 years?

MR. BARNES: That would be my own view, yes, sir.

SENATOR JACKSON: You said in the absence of fraud.

MR BARNES: There is no statute, Senator, where fraud is involved, no statute of limitations.

SENATOR JACKSON: But I meant on the keeping of books, and you qualified your statement.

MR. BARNES: You see, this is indefinite, and probably it would be reasonable to keep to the period of limitations that applies to the determination of tax liability.

SENATOR JACKSON: If there is fraud they would be required to keep the books indefinitely?

MR. BARNES: Well --

SENATOR JACKSON: I am trying to reason that out

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MR. BARNES: If there was fraud, you would probably not expect them to keep the books at all.

SENATOR JACKSON: You wouldn't expect to find any books?

MR. WINKLE: That is one of the practical problems that we encounter in attempting to lay down any flat or general rule, as to the time that any taxpayer, or all taxpayers should keep their books and records.

As Mr. Barnes pointed out, normally, the Commissioner has the authority to make an assessment within 3 years, so that normally it would seem that in ordinary circumstances a 3-year retention period would be sufficient. But in view of the fact that there is no statute of limitations where there is fraud, it makes it pretty difficult to spell out a rule, a flat 3-year rule without at the same time in effect endorsing the destruction of records that might have been maintained in connection with a false return.

SENATOR JACKSON: Is there a statute now that relates to the destruction of records?

MR. BARNES: There is a penal statute, yes, sir.

SENATOR JACKSON: As it relates to that?

MR. BARNES: But as I recall, it is keyed into the regulations, Senator, and the regulations being indefinite that would apply.

SENATOR JACKSON. Have there been any decisions on this, and I am just trying to find out what the law is.

MR. BARNES: I am sorry, but I couldn't answer that question. There may have been.

MR. WINKLE: There are criminal penalties for willful failure to keep records or supply such information.

SENATOR JACKSON: What constitutes willful failure? Supposing the books are not available more than 3 years back. Then what happens?

MR. WINKLE: I think we would probably have to check on the decision aspect of it, Senator.

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MR. KENNEDY: I have a couple of more questions. I would like to know whether you would question whether the tax-exempt status of a labor union should continue if that union refuses to turn over the books?

MR. BARNES: As a legal proposition, I would say we had the right to challenge it.

MR. KENNEDY: Would you think as a practical matter that you would challenge it?

MR. BARNES: I will let Mr. Winkle answer that.

MR. KENNEDY: That you would try to examine into it and find out what the facts were?

MR. WINKLE: I think perhaps up to the time the ninth circuit handed down this decision, the normal procedure probably would have been to try to compel production as the least drastic, and perhaps in some instances the fairest, way to proceed rather than to take the summary action of revoking the exemption. I think up until the ninth circuit decision, the Service, subject to check by counsel here, probably had every right to believe that it would be able to get enforcement of its subpena rrther easily by going into the district court. That would have compelled production.

Now, I think the decision of the ninth circuit does raise a question certainly as to whether that is the way to proceed in the future or whether the other approach should be taken.

MR. KENNEDY: That is something that you would definitely consider, if tax-exempt organizations refused to turn over their books to the Government, whether it is the legislative or the executive branch of the Government.

MR. WINKLE: Particularly, as I say, if the ninth circuit decision stands.

MR. KENNEDY: And it is now in existence?

MR. WINKLE: It is now in existence in the ninth circuit.

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MR. KENNEDY: The other question I wanted to ask you was this: If it came to your attention through the hearings of this subcommittee or in any other way that the part of the net earnings of these tax-exempt labor organizations inure to the benefit of some of the officials, and union officials of that organization, would that also raise a question in your mind as to whether the tax-exempt status should continue? Would you want then to make an investigation to determine that?

MR. BARNES: As a legal proposition; I would say certainly it ought to be looked into.

MR. KENNEDY: Because of the regulation that you have covering this matter?

MR. BARNES: Yes, sir.

THE CHAIRMAN: Are there any other questions? Do you think that we need some legislation to tighten up some of these problems?

MR. WINKLE: Do you want to comment on that, Mr. Barnes?

MR. BARNES: Perhaps I can. Of course, Mr. Chairman, you realize that so far as Internal Revenue is concerned --

THE CHAIRMAN: Just a brief statement.

MR. BARNES: Legislative policy is handled by the Treasury, and I am just giving you my own personal views. I think to provide any more police measures might be of doubtful help. That is because of the difficulty we have now doing a policing job. It seems to me that publicity and that sort of thing, which would induce or compel voluntary compliance might be more helpful, sir. That is just my own personal suggestion, sir.

THE CHAIRMAN: All right. Is there anything further?

Thank you, gentlemen.

Either of you may answer this question: What comment would you care to make with reference to an investigation of the character that this committee is undertaking? Do you think that it may result in some information being secured that would be beneficial and helpful to the administration of the revenue laws?

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MR. WINKLE: Well, I think Mr. Chairman, that in consideration of the size of the problem that confronts the Revenue Service, it would welcome any information from this committee or any other committee or any other source that would tend to pinpoint particular situations that would be productive of revenue or indicate that the laws had not been complied with.

THE CHAIRMAN: Thank you very much.

* * * * *

THE CHAIRMAN: At the opening of the executive session this morning, the Chair made a statement in the record of the purpose of this investigation, reviewing some of the information, in general terms, that we have, and some of the problems that confront Government in its operations and in its administration; also some question, possibly, of legislation that may be indicated. I asked the counsel a while ago if a copy of the statement that the Chair made had been supplied to the witness and his counsel.

Have you received a copy of it and read it and are you familiar with it?

MR. BREWSTER: I have.

* * * * *

THE CHAIRMAN: Have you submitted a copy of your statement to the committee under the rule?

MR BREWSTER: Yes, sir; I have.

THE CHAIRMAN: I have not seen the statement. Just one moment. May I see it?

SENATOR SYMINGTON: Mr. Chairman, would you read it to the rest of the committee?

THE CHAIRMAN: There is a copy there.

MR KENNEDY: There are only two copies.

MR BASSETT: If I may, Mr. Chairman, I have additional copies

THE CHAIRMAN: Pass them out and the committee members

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will read it. We will then determine whether it will go into the record.

SENATOR McCARTHY: Was this filed with the committee?

MR. KENNEDY: Yes, it was.

THE CHAIRMAN: Mr. Brewster, the Chair will rule that you may read into the record, if you desire, the statement which you have submitted.

* * * * *

THE CHAIRMAN: You raise a question of constitutionality and a question of the committee exceeding its authority. I want you to state your position with reference to that before I proceed further.

(The witness conferred with his counsel.)

MR. BREWSTER: I do not intend to answer any questions until the committee is lawfully and legally recognized, this committee, as to its authority.

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VIOLATION OR NONENFORCEMENT OF
GOVERNMENT LAWS AND REGULATIONS
IN THE LABOR UNION FIELD

Saturday, January 19, 1957

United States Senate,

Senate Permanent Subcommittee on Investigations,

of The Committee on Government Operations,

Washington, D.C.

The subcommittee met at 10:20 a.m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in room 357 of the Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Henry M. Jackson, Democrat, Washington; Senator Stuart Symington, Democrat, Missouri; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Joseph R. McCarthy, Republican, Wisconsin; Senator Karl E. Mundt, Republican, South Dakota; Senator Chapman Revercomb, Republican, West Virginia.

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Also present: Robert F. Kennedy, chief counsel to the subcomittee; James N. Juliana, chief counsel to the minority; Jerome S. Adlerman, assistant counsel; Ruth Y. Watt, chief clerk.

THE CHAIRMAN: The subcommittee will be in order.

(Present at the convening of the hearing were Senators McClellan, Jackson, Symington, McCarthy, Mundt, and Revercomb.)

THE CHAIRMAN: The Chair wishes to announce as we resume public hearings that in the interim since yesterday at noon when we recessed, the committee has heard a number of witnesses in executive session, witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry and testimony that indicates conditions prevail that are of interest to the Congress in its investigation of Government operations with respect to its efficiency and economy.

Some of those witnesses may have testified reluctantly under some apprehension as to what might happen to them if their testimony should be revealed. The Chair took occasion during that executive session to instruct those witnesses that they remained under the congnizance of the committee, under their present subpena, and they are likely to be called to testify in public.

The Chair instructed them that if anyone attempted directly or indirectly to intimidate them or coerce them or threaten them in any way, they should report that to the committee at once and the committee would take appropriate action thereon.

I think that is a proper attitude for this committee to take toward those witnesses whom it subpenas and who give pertinent and vital testimony to the subject of this inquiry and under compulsion of a subpena. That is the rule of the committee, and we will try to observe it if the witness will cooperate with us if any such attempt at intimidation or coercion or any threats are made against them.

The first thing the Chair wishes to do is to insert in the record at this point a letter received this morning from Mr. Kenneth C. McGuiness, General Counsel of the National Labor Relations Board, in

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response to a letter written by the committee and to the Secretary of Labor on January 8, 1957, requesting certain information regarding a number of labor organizations including the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Joint Council 42, Los Angeles, Calif., and also the Western Conference of Teamsters, Seattle, Wash.

The letter will be printed in the record at this point and the documents submitted along with the record, photostatic copies of official documents now on file with the National Labor Relations Board and the Department of Labor -- all the documents submitted with the letter will be made exhibit No. 22 for reference.

(The documents referred to were marked "Exhibit No. 22" for reference and will be found in the appendix on p. 292.)

THE CHAIRMAN: The letter, among other things, states:

Your letter of January 8, 1957, addressed to Boyd Leedom, Chairman, National Labor Relations Board, requested certain documents and information pertaining to compliance status of named union organizations. Of those organizations named, we find that the following have no compliance documents on file with us.

That includes the two unions and the two organizations I have mentioned and others that are listed in the letter.

(The letter referred to follows:)

Hon. John L. McClellan,

Chairman, Senate Permanent Subcommittee on Investigations,

United States Senate, Washington, D.C.

Dear Senator McClellan: Your letter of January 8, 1957, addressed to Boyd Leedom, Chairman, National Labor Relations Board, requested certain documents and information pertaining to the compliance status of named union organizations.

Of those organizations named we find that the following have no compliance documents on file with us:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Joint Council No. 42, Los Angeles, Calif.

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Western Conference of Teamsters, Seattle, Wash.

Joint Teamsters Building Association, Portland, Oreg.

Joint Teamsters Building Association, Seattle, Wash.

Joint Council No. 28 Promotional League, Seattle, Wash.

National Trade Division of Laundry, Linen, and Dry Cleaning Drivers, Seattle, Wash.

Joint Council No. 28 Legal Fund, Seattle, Wash.

Joint Council No. 28 Legislative Funds, Seattle, Wash.

Joint Council No. 28 Donation Funds, Seattle, Wash.

Joint Council No. 43 Public Relations Division, Los Angeles, Calif.

Western Line Drivers Association, Los Angeles, Calif.

For the following organizations we attach hereto the documents requested, viz, NLRB forms 1080 and 1085 which were current as of December 31, 1955:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Washington, D. C.

Teamsters Joint Council No. 28, Seattle, Wash.

Teamsters Joint Council No. 37, Portland, Oreg.

Local 174, Teamsters, Seattle, Wash.

Local 472, Inside Brewery Workers, Warehousemen and Helpers, Seattle, Wash.

International Union, Allied Industrial Workers of America, AFL-CIO, formerly United Automobile Workers, AFL.

Local 223, Teamsters, Portland, Oreg.

Local 321, Teamsters, Bend, Oreg.

(You requested Local 324, General Teamsters, Salem, Albany, Corvallis, Lebanon, Newport, McMinnville and vicinity, Oreg. We have wired requesting the material on local 324 and will deliver it to you as soon as it is received.)

Local 618, Automotive, Petroleum and Allied Industries Employees Union, Teamsters.

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(You ask for National Automotive, Petroleum and Allied Trades Division, St. Louis, Mo. You gave no local number. We assume that we are correct in sending the attached, having found no other organization with a similar name.)

Local 961, Line Drivers, Teamsters, Denver, Colo.

Central Conference, St. Louis, Mo.

As to Local 227, Allied Industrial Workers of America, we attach a copy of a complete memorandum from our New York office. No photostats were supplied, but the information which would have been on such photostats if attached will be found in the memorandum in parentheses.

Southern Conference of Teamsters filed originally with us on March 30, 1956, and therefore there are no documents which were in effect as of December 31, 1955.

This I believe, covers the organizations listed by you concerning the photostats requested. We are presently compiling information on those organizations which have filed with us covering their officers from January 1949 to December 1956, and will supply you with this information within a week.

Sincerely yours,

Kenneth C. McGuiness,

General Counsel.

THE CHAIRMAN: All right, John Lindsay, stand and be sworn.

Do you solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth and nothing but the truth so help you God?

MR. LINDSAY: I do.

* * * * *

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SENATOR ERVIN: Is it not a fact that it is one of the chief objects of the Western Conference of Teamsters to promote sound public relations?.

(At this point Senator McCarthy entered the hearing room.)

(The witness conferred with his counsel.)

MR BREWSTER: I decline to answer for the same reason that I have given.

SENATOR ERVIN: You did answer that when you put this statement into the record, did you not?

MR. BREWSTER: I decline to answer.

THE CHAIRMAN: The witness is ordered and directed to answer.

SENATOR ERVIN: I just want to ask you this question --

THE CHAIRMAN: Wait a moment. The witness is ordered and directed to answer the question. He waived his right not to answer it. Since he made it in his statement, we have a right to interrogate about it

(The witness conferred with his counsel.)

MR BREWSTER: I refuse on the same grounds.

THE CHAIRMAN: The Chair orders you and directs you to answer for the reasons that the Chair has given.

* * * * *

MR KENNEDY: I mentioned the Steel Workers Union when I was talking to you before, and I referred to the sheet metal workers, and not the steel workers. Could I get the record corrected in both instances I was referring to sheet metal workers?

THE CHAIRMAN: Do you wish to change your answer with respect to those questions?

MR REICH: I do not think that there was an answer, and if there was I would not change the answer, Senator.

MR KENNEDY: There was no answer.

MR REICH: I do not think so.

THE CHAIRMAN: Are there any further questions?

If not, the witness will stand aside

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MR. REICH: Am I excused?

THE CHAIRMAN: You came voluntarily, and you may leave accordingly.

MR. REICH: Thank you for the courtesy extended to me in hearing me on this application.

THE CHAIRMAN: This brings to a close this presently scheduled public hearing in the course of the investigation the committee is conducting into the matters that have been revealed here, in the course of testimony given and statements made to the Chair as to the purpose of this inquiry.

I anticipate that there will be further proceedings. I think that we have not even yet begun to discharge the full responsibility of this committee under the law and rules of the Senate, based upon the information that we have that has not yet been testified to and on the evidence and particularly with emphasis on the character of evidence or lack of evidence that this committee has been able to adduce during the course of these hearings.

In the opinion of the Chair, and I believe it is shared by all of my colleagues on this committee, at least that is the impression I gathered from conversations with them, and some of them are present and can speak for themselves, I think this series of hearings has clearly demonstrated that there is either a deficiency in existing law or laws that needs to be corrected, or there is inefficiency in administration of existing laws due to an inaccurate or incorrect interpretation of the present laws.

Apparently remedial improvement in administration and remedial legislation is needed to insure greater efficiency in the administration of the laws of our country in this area of inquiry, and also to relieve the impact on the economy of our Government that is imposed by fraudulent reports and statements that do not reflect the true financial operations of labor unions with respect to either what they report to the Government or that which they under law are required to dissemi-

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nate to their membership.

I believe this is a field of not only opportunity but duty of this committee, of the Congress, and the Government to further inquire into, to the end that the efficiency of government may be greatly improved in the administration of its laws as they now exist and that additional legislation is necessary to be enacted to protect not only the interest of the Government, but the interest possibly of hundreds of thousands of innocent, honest, hardworking people who day by day by reason of either the inadequacy of present laws or their lack of correct interpretation and efficient administration are the victims of some who occupy positions of trust in their union organizations, and who have violated and are violating that trust by misappropirating their funds and by using dues extracted from the wages of workers for their own profit and gain.

Therefore, it would be the purpose of the Chair, with the acquiescence and support of the committee, to continue this inquiry.

Are there any other statements?

SENATOR MC CARTHY: I have received a vast number of calls and wires on the question of whether or not we are going to let these individuals accused of forgery and misappropriation of funds get away with thumbing their nose at this committee of the Senate.

I thought maybe the Senator might want to comment on what, if any, action might be taken along that line.

THE CHAIRMAN: The Chair can only express his own views. I think there has definitely been willful contempt committed by some witnesses who have appeared in public hearings before this committee. The Chair will ask the staff and he now instructs the staff to review the record on each witness who has testified, and after consultation, to prepare the necessary resolutions and procedures to have a determination with respect to whether such contempt has been committed, and to have such proceedings tried in a tribunal of proper jurisdiction.

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I think the public is entitled to know how the chairman feels, and probably members of the committee, at the conclusion of these hearings. That does not single out any particular witness at this time. The Chair is equally confident that some who have testified are not in contempt of the committee, but I do believe that there are those who are.

The Chair, with the committee's approval, will undertake to pursue it and to pursue the issues that have been raised in the course of these hearings, and to pursue those issues to a final conclusion to the end that they may be resolved once and for all so that we may know whether this Government can protect itself against imposition of fraud, and whether it has the power, if necessary, by additional legislation and additional laws to protect the working people of this country from a form of extortion, theft, and embezzlement that some of the testimony before this committee clearly indicates has occurred.

SENATOR McCARTHY: In that connection, very briefly, I may comment on the fact that I have received a vast number of communications from good laboring men and not a signle one has opposed these hearings. They are heartily in favor of them. There has been some pressure exerted to get us to sweep this whole matter under the rug and forget about it, but none of that has come from the laboring men of this country.

I think they feel as a whole the same as this committee. I assume the Chair has received mail and wires along like lines. I have received a vast amount of them.

I might say it made me very happy to find that the working men were not deceived, and they realized this was no investigation of unions as such, but merely for the purpose of protecting the workingmen and deciding what additional legislation is required to protect them from the type of some of the individuals who have appeared before this committee.

* * * * *

EXCERPTS FROM PROCEEDINGS AGAINST FRANK W. BREWSTER FOR CONTEMPT OF THE SENATE
(Continuation)

464 THE COURT: * * *

* * * * *

You may proceed, Mr. Pickens.

MOTION TO STRIKE TESTIMONY

By: Mr. John K. Pickens

MR. PICKENS: May it please the Court, first I would like to make a motion to strike the testimony of Mr. Robert F. Kennedy.

The Chairman of the Subcommittee on January 16 and January 19, 1957, at the opening of the hearings on those dates, stated the purpose of the hearing, for whatever it is worth, and the testimony of Mr. Kennedy is after the event and we say not competent evidence and has no probative value.

Much of his testimony is hearsay, and it is hearsay of the type that I know of no exceptions that would allow such testimony in the record.

465 Now in United States against Watkins, in the District Court, inasmuch as that case is concerned, as I recall, the District Court ruled out the speeches by all Congressmen who were members of the Committee at the time, newspaper articles and other such evidence and restricted the Government's evidence to the statement of the Chairman

I believe the ruling of Judge Curran in the Lawson case and another case was to the same effect.

Mr Kennedy s testimony comes after the event. It has the danger that it can be concocted or it is the type of evidence that is speculative It is what they hoped was the purpose of the committee and it is not testimony that was formulated at the time that the Committee met So for that reason I move that all of his testimony be stricken.

THE COURT. Mr. Pickens, didn't I allow you wide latitude on cross-examination of Mr Kennedy, wherein you questioned him regarding an alleged conversation he had with people on the West Coast?

And I think you made the suggestion, one time when I started to limit your cross-examination, that I had allowed wide latitude with the Government in adducing this evidence.

I reconsidered the matter and I thought in view of the fact that I did allow wide latitude for the Government, that I should do the same thing for the defense.

466 MR. PICKENS: Well, that is true that I went into this conversation with people in Los Angeles, Seattle and Portland. But I objected, if your Honor will recall, from his giving any testimony of the Committee.

Those things that he testified to were things that actually happened prior to the hearings on January 16th and 19th. Whereas the testimony that Mr. Hitz elicited from him was his speculation now of what he thought the committee had in mind and the purpose the committee had in January 16th and 19th.

The fact that I cross-examined him on these other events I don't think makes his prior testimony any more competent or any more probative.

THE COURT: I might also add, it is my recollection that you read from some of those volumes you have on the trial table, excerpts from statements and various Senators, considering the Reorganization Act of 1946, to show the legislative history concerned in connection with that Act.

MR. PICKENS: That is correct, your Honor.

THE COURT: That would also be in the nature of hearsay too, wouldn't it?

MR. PICKENS: But it would be the type of res gestae. It happened at the time the Reorganization Act was going through the Senate. If any of the senators didn't agree with the authors of the

467 statement they could call it to his attention at that time.

Mr. Kennedy's testimony would be something akin to a statement by a Senator four or five years later, as to what their purpose was at the time they passed the legislative Reorganization Act in 1946.

THE COURT: Well, I will deny the motion.

MR. PICKENS: Now I would like to say one or two words preliminary to making a motion for acquittal so that your Honor understands our basis.

We contend that the committee of course started in this investigation of labor racketeering, and after they found that Mr. Brewster and Mr Bassett and others were going to challenge their jurisdiction, as I stated yesterday, it is our contention that then they went around and tried to surround themselves with an aroma of authority.

Now it is our theory of the case, your Honor, that when Mr Brewster started to testify on the 16th and 19th, the Committee was well aware that he was going to refuse to testify on any matter because he claimed the committee was outside its authority, but because he claimed that the two subpenas duces tecum were too broad and were actually searches and seizures out of the bounds of the fourth amendment.

Now in view of that, along with the United States against Costello
468 and other cases, it has been held that you can't compound this misdemeanor of refusal to testify before any committee of Congress by asking repeated questions and I believe that once it is clear to the committee that the witness is refusing to answer any questions, then the fact that they keep on propounding question doesn't compound the offense

So it is our contention along these lines that when the committee met when Mr Brewster read his statement, if the committee had in fact had authority then of course we say it did not, that would be the contempt and that any questions thereafter would not add to the offense.

So that it is our view of the case that most of the questions in this 31-Count indictment are merely attempts by the committee to entrap Mr Brewster so that they can claim that he has opened the door, so that he might make a mistake and answer one of them and they could thereby claim that he had waived his objection to the committee's lack of authority

So that in view of all of that, defendant moves for a judgment of acquittal, in accordance with Rule 29 of the Federal Rules of Criminal Procedure.

THE COURT: Excuse me. What was that number; 29?

MR. PICKENS: Number 29, and all nine grounds set forth in the
469 motion to dismiss the indictment previously filed herein, and on the following grounds: One, that the Government has failed to establish that the committee had authority and jurisdiction to conduct an investigation into labor racketeering or the internal affairs of labor unions for the personal affairs of Frank W. Brewster; secondly, that the Government has failed to prove that the defendant wilfully or deliberately and intentionally refused to answer the questions as set forth in 31-counts; three, the Government has failed to establish what the question under inquiry was; and fourth, the Government has failed to prove that the questions asked were pertinent to the questions under inquiry; number five, the government has failed to prove that the committee had the right to inspect the tax returns of the Western Conference, Joint Council 28, Local 124, or the personal returns of Frank W. Brewster.

Now Executive Order - I was speaking in connection with five at the moment.

Executive Order No. 10606, signed by President Eisenhower on May 3 of 1955, allowed the Committee on Government Operations to inspect the Income, the Excess Profits, and Declared Value Excess Profits, Capital Stock, Estate and Gift Tax Returns by the Senate Committee, by that committee, such inspection to be in accordance and compliance with the rules and regulations prescribed by the Secretary of the Treasury in the two Treasury decision, relating to the
470 inspection of returns by committees of the Congress, approved by me this date, May 3, 1955. That is, May 3, 1955.

On that same date he approved two Treasury decisions. One of them is T. D. 6132 and the other is T. D. 6133.

The first one provides for the inspection of or by this committee: "Only such of the aforementioned returns as are specified in a resolution adopted by the committee in accordance with the rules of the appropriate House of the Congress then applicable to the reporting of a measure or recommendation from such committee shall be open to inspection."

We contend that the Committee never had authority to look at these forms or any other forms, because they hadn't complied with the Executive Order, or with the regulations of the Treasury.

It is out understanding that, in fact, when they did attempt to obtain these forms that the Attorney General ruled against them. Now I don't have any citations to this formal ruling, and I don't know whether his ruling was formal or just a verbal order. But that is my understanding.

In connection with this I would like to address myself to the
471 Watkins case that was handed down by the Supreme Court on yesterday, and it is very pertinent because it goes to the very basis of the contentions of the defendant in this case.

The Watkins case is Number 261, in October term, 1956. It is John T. Watkins, Petitioner, against the United States of America.

The opinion for the Court was written by Chief Justice Warren on June 17 1957.

* * * * *

489 THE COURT: Will you point the parallels out that you claim exist between the Watkins case and this case?

MR. PICKENS In the Watkins case we feel that you had a much narrower area in which they investigated. It was defined with much greater particularity than the resolutions the government has introduced in this case.

In the Watkins case, the Chief Justice says that to give the subcommittee all the power that the full committee had is not good. It is not enough to define the scope of the inquiry or to inform anyone as to what the subcommittee is investigating. That is exactly what we have

here. We have here the contention that the full committee, by resolution, I believe, in February of 1948, conferred upon this subcommittee all the authority that it had.

Here we have the definition, at least, under the Reorganization
490 Act, it says that this committee can look into government operations and all that but with a view to economy and efficiency.

Here we have the chief counsel admitting that when they were investigating military procurement they ran into this field of labor racketeering. So immediately they take off on a wild chase in the field of labor racketeering, with no more authority from the Senate at all.

Here we have the Chairman on the 7th of January, 1957 going back to the Senate and asking for more authority, and funds, to conduct an investigation into labor racketeering and even to look into these forms that they were filing under Taft-Hartley and these forms that they were filing with Internal Revenue.

He introduced Senate Resolution 14, which has two pages of "Wherases." I think I read it in my opening statement. He clearly asked for authority. Not waiting for that authority he takes off into this investigation into labor racketeering. He takes off on that subject, and justifies it by investigating into the forms that are required to be filed under 9(f) and (g), when in the very debate he asked for authority to undertake the forms.

So we think the situation here is even more wide open as far as the authority of charter, than the situation was in the Watkins case.
491 I submit the term "labor racketeering" is as wide, if not more so, than the term "Un-American Activities."

We think that the Supreme Court, as of yesterday, has set a new look on these investigations that Congress has been making since World War II. I think the remarks are especially pertinent to the Committee on Government Operations.

We submit, your Honor, that the ruling of the Supreme Court yesterday compels a dismissal of the indictment of Frank Brewster.

THE COURT: If I remember that case correctly -- I have not had an opportunity to read the whole thing, and I read part of it this morning -- but as I remember the Watkins case, which you have already cited at some length, that was a case that was tried in this court. I have forgotten the judge who tried it the last time. I think Judge McGarraghy tried the last case --

MR. HITZ: He did, your Honor.

THE COURT: Well, anyway, as I understood, the principal point in that case was this: There was a man named Mr. Watkins called before the Un-American Activities Committee, and he freely testified and told the committee he was willing to tell about anything he had personally done in the past, so far as his own actions were concerned. He denied anything else. He testified freely of his activity. But when he was asked a question as to whether or not he would
492 disclose a name of a person or persons, he objected on the ground that he would not tell the names of any people that he felt were no longer connected with the Communist Party. I think he based it on a question of conscience and he didn't think that was a pertinent inquiry.

I think that is substantially the question you refer to; is that right?

MR. PICKENS: That is right.

THE COURT: I think we have a much different situation here, frankly. We have an investigation that is much broader. The scope is broader. The intent of Congress I submit, in connection with this particular committee, was not only to allow it or gave it broad powers, but permitted it to look into matters as set forth in the Reorganization Act of 1946. "Of Government activities at all levels." It didn't say with reference to any particular department. It said, "All levels, with a view to determining its economy and efficiency, and further evaluating the effective laws and action" and so forth.

Now that is a pretty broad statement, I think. It gives the committee very broad powers and authority together to go into various things that they might feel would mean immediate legislation. It would more or less cover up any loopholes that exist. For instance, "the power

to determine whether or not."

493 Everybody knows that the National Labor Relations Board does a very fine job, I think. Do you mean to say if a labor organization asks for the Commission to use the services and facilities of the labor organization -- I am talking about the National Labor Relations Board -- that it can say, "Well, we are not going to pay attention to your regulation. It is true we have filed certain information setting forth certain information. But that doesn't mean that we have not set it forth truthfully."

I don't believe that was the intent of Congress, now.

MR. PICKENS: We say, your Honor, that what was Mr. Kennedy doing out in Los Angeles and Portland and Seattle? He was investigating vice and corruption. He admits that he wasn't up there, didn't ask any questions about these forms that he was talking about. If that is so, why did Chairman McClellan on January 7th go to there and ask for more money?

And in one paragraph, in order to investigate these forms required to be filed under Public Law 101 -- on the 7th of January he asked for that authority. No one had ever given it to the committee before.

THE COURT: That is your recollection. Maybe Senator McClellan was along. Maybe he had the power he needed then and maybe he was wrong about it, I don't know. At this stage of the trial I am not going to grant your motion.

494 (Motion denied.)

* * * * *

495 MR. PICKENS: Your Honor, some subpenas were issued, one of which was issued for the appearance of the Secretary of Labor, the Honorable James Paul Mitchell.

Pursuant to his request, Mr. Hitz and I went to the Secretary's office on Saturday and I questioned the Secretary and Brother Hitz questioned the Secretary, and on the basis of that questioning we have drawn up a stipulation as to what the Secretary would testified to in

substance if he were called as a witness for the defendant, and I would like to read that into the record.

THE COURT: You may read it.

MR. HITZ: How would it do to make that a Defense Exhibit? Don't you think that might be well?

MR. PICKENS: All right, I will make it Defense Exhibit 1, and I would like to read it in the record at this point.

MR. HITZ: No objection.

THE COURT: It may be admitted.

(Defense Exhibit No. 1, was marked for identification and admitted in evidence.)

MR. PICKENS: (reading)

"It is hereby stipulated that the Honorable James Paul Mitchell, Secretary of Labor, if called as a witness at this trial by the defendant would give testimony substantially as follows:

496 "On January 4, 1957, at 9:30 a.m., Secretary Mitchell met with Robert Kennedy, Esquire, Chief Counsel for the Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate and with Mr. Carmine Bellino, Accounting Consultant to that Subcommittee, in his offices in Washington, D.C. This conference was requested by Mr. Kennedy. The Secretary stated that Mr. Kennedy was soliciting general background information that the Secretary had concerning labor union practices, good and bad, and how unions operated in general.

"He stated that he could not recall any discussions at this conference relating to the forms required to be filed by labor unions pursuant to Sections 9(f) and (g) of the Taft-Hartley Act. He stated that he thought eight or nine unions were mentioned and that among those was the Teamsters' Union.

"He stated that the discussion centered mainly around unions in the midwest and east, as he (the Secretary) was more familiar with unions in those sections of the Country. The

Secretary expressed himself as being of the opinion that Mr. Kennedy was seeking the benefit of the Secretary's experience in the labor field. The Secretary had not discussed any of these
497 matters with Mr. Kennedy, any members of the staff of that Committee, or any members of the Committee prior to that date.

"On January 12, 1957, the Secretary went to Senator John L. McClellan's office pursuant to a prior request from Mr. Kennedy, for a conference with Senator McClellan, Chairman of said Permanent Subcommittee.

"Senator McClellan inquired of the Secretary concerning the Department of Labor's authority and responsibility under the Taft-Hartley Act concerning the forms filed by labor unions pursuant to Sections 9 (f) and (g) of the Act. At this time Senator McClellan requested the Secretary to be a witness at the hearings which commenced the following Wednesday, January 16.

"The Secretary stated that he had not at any other time discussed with members of the Committee or its staff the subject of the investigation or the filing of the forms pursuant to said Section 9(f) and (g) of the Taft-Hartley Act, except that some time in May 1957 he went to Senator Hill's office in the Senate Office Building and discussed a proposed Joint Resolution to enable the Secretary of Labor to make public information contained on these forms filed by labor unions pursuant to said Sections 9(f) and (g) of
498 the Act. As a result of this conference, which was held at the Secretary's request, the Joint Resolution was subsequently introduced by members of the Senate Committee on Labor and Public Welfare and the Select Committee on Improper Practices in the Labor or Management Field.

"Other than the conferences referred to, the Secretary stated that he had had no other conferences with other members of the Subcommittee concerning these specific matters.

"With reference to the Secretary's testimony on page 23 of the Subcommittee hearings of January 16-19, 1957, in which he stated that the Labor Department was then 'reviewing at the President's recommendations,' the Secretary stated that the Department did pursue that study and has made some recommendations.

"In addition, the Department has promulgated new registration forms pursuant to Public Law 101, 80th Congress, as a result of an administrative decision that more detailed information was desirable from registering unions. The Secretary stated that among the changes made by the new form, information was to be elicited as to gifts, loans, and other financial transactions between union officers and unions. The new form also calls for certification by the president or principal executive
499 officer of the union and the secretary-treasurer or principal financial officer of the union and specifically warns of the penalties which may result under U.S.C. -- under 18 U.S.C. -- 1001 for the submission of false information. To some degree, these changes in the forms were the result of testimony before the Committee (the Subcommittee and the Select Committee).

"Dated at Washington, D.C., this 15th day of June, 1957.

"John K. Pickens, Attorney for Defendant;

"William Hitz, Assistant U.S. Attorney."

THE COURT: Very well.

MR. HITZ: Would your Honor pardon me a moment while I discuss something with Mr. Pickens?

THE COURT: Yes.

MR. PICKENS: Your Honor, after the Secretary was shown this stipulation, it was not clear to us whether or not Senator McClellan was at this conference that is referred to on the second paragraph on page two, that was held in May, 1957, in Senator Hill's office.

So at the end of that sentence, and prior to the sentence that starts "As a result of this conference," Mr. Hitz and I would like to insert the sentence, "Senator McClellan was present at this conference in

Senator Hill's office."

500 THE COURT: Very well.

* * * * *

MR. PICKENS: Likewise, your Honor, we accommodated Judge Leedom of the National Labor Relations Board. A similar arrangement was made. We accepted the statement of Judge Leedom as drafted concerning when he first talked with Mr. Kennedy, when he first talked with Senator McClellan on the subject of those conferences.

So with the permission of the Court I would like this to be marked as Defendant's Exhibit No. 2, and I would like to read it in the record.

THE COURT: You may read it.

MR. HITZ: No objection, your Honor.

(Defendant's Exhibit No. 2 was marked for identification and admitted in evidence.)

MR. PICKENS: (reading):

"It is hereby stipulated that the Honorable Boyd Leedom, Chairman of the National Labor Relations Board, if called as a witness at this trial by the defendant, would give testimony substantially as follows:

501

"On January 7, 1957, Chairman Leedom met with Robert Kennedy, Esquire, Chief Counsel for the Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate, and with other staff members of that Committee. The conference was requested by Mr. Kennedy and occurred at the offices of the National Labor Relations Board, in Washington, D. C. Mr. Kennedy inquired whether the Western Conference of Teamsters was a labor organization, and whether the Board had any control over a labor organization if the financial data which it filed pursuant to Section 9(f) and (g) of the National Labor Relations Act, as amended, proved to be false.

"Chairman Leedom stated that he did not know whether the Western Conference of Teamsters had appeared as a labor organization in any cases before the Board, but that inquiry

would be made of the Board's regional offices concerning this matter.

"The results of this inquiry are set forth in Chairman Leedom's subsequent testimony before the Permanent Subcommittee on Investigations (Hearings before the Permanent Subcommittee on Investigations, 85th Congress, 1st Session, January 16, 1957, pp. 3-20, 260-263). Respecting the financial
502 reports under Section 9(f) and (g), Chairman Leedom pointed out that the Board believed that it had no power to investigate the truth or falsity of the reports, or to declare a union out of compliance if the reports proved false; that the Board's function in this area seemed to be limited to a determination that the union had a post card from the Secretary of Labor stating that the required documents had been filed with him."

I might add that this citation of the 85th Congres, above, is Government's Exhibit 6.

THE COURT: All right.

MR. PICKENS: (continuing)

"On January 15, 1957, Chairman Leedom went to the office of Senator John L. McClellan, Chairman of the Permanent Subcommittee, for a conference, at which Mr. Kennedy was also present. This conference covered the same ground as the earlier one with Mr. Kennedy. Chairman Leedom again explained the Board's view that it lacked authority to investigate the veracity of the financial reports which were filed by a labor organization pursuant to Section 9(f) and (g) of the National Labor Relations Act, as amended. Chairman Leedom added that the Supreme Court had recently held that the Board lacked such authority in respect to the non-communist affidavits required by the com-
503 panion Section 9(h), and that the Board believed that the same rule of law applied to the Section 9(f) and (g) reports.

"The substance of the two conferences described herein was subsequently repeated by Chairman Leedom on January 16, 1957, in his testimony before the Permanent Subcommittee on Investigations (Hearings, op. cit., supra).

"Dated at Washington, D.C., this 18th day of June, 1957.

"Signed: John K. Pickens, Attorney for Defendant;
William Hitz, Assistant U.S. Attorney."

* * * * * *

Your Honor, Mr. Hitz has supplied me with the Minutes of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, held on January 10, 1957. It bears a certificate signed by Acting Chief Clerk Barbara Maxwell. I would like to have this marked and introduced as Defendant's Exhibit No. 3.

THE COURT: Do you offer that in evidence?

MR. HITZ: No objection.

THE COURT: It may be admitted.

* * * * * *

505 Senator McClellan said both resolutions were introduced in the Senate and the Vice President was holding them on his desk without referral. He said he did not know what would happen, but discussed the possibilities of a fight on the Floor of the Senate. He explained
506 that a suggestion had been made to try to work out something in the nature of a special committee or Joint Committee composed of members of the Senate Committee on Labor and Public Welfare, and this subcommittee then filed a general discussion as to the formation of a new executive committee and the chairman indicated that he would not be desirous of serving on any new committee unless he knew who the members would be and unless his present staff would handle the investigation.

The members of the subcommittee agreed that this would be proper.

The Chairman turned the meeting over to Chief Counsel Kennedy who proceeded to brief the members on labor investigation He explained how the labor investigation developed from the testimony in the military procurement program which had been handled by subcommittee. He said that inquiry had been conducted in the New York area with regard to labor locals.

He generally discussed the relationship between Shefferman and Beck and the many purchases made, using union funds for their personal benefit. He said that the story really would be told in the bank accounts of the Western Conference of Teamsters and other Teamster unions, but that these bank accounts which had been subpenaed had not been shown to the subcommittee because of State Court action.

507 He discussed the union officials invoking the fourth amendment. Mr Kennedy also discussed with the committee the basis of its jurisdiction. First, since unions are tax-exempt, these men were misusing tax-exempt moneys and, therefore, the committee would be inquiring to determine whether the tax exemption was proper; secondly, under the law, the labor department requires financial statements from unions if they wish to obtain the use of the NLRB. However, the Labor Department presently feels because of certain important decisions, they are precluded from finding out if these reports are accurate or inaccurate

Mr. Kennedy also pointed out there appears to be an inadequacy in the law or the administration of the law in that certain organizations, such as the Western Conference of Teamsters, do not file at all with the Labor Department.

The Chairman said that he had a right to call an executive session to hear a witness and obtain documents as a preliminary hearing. He felt there should be one for Wednesday and possibly public hearings later on.

And at 5:10 p. m., the committee adjourned.

That is signed Ruth Young Watt, Chief Clerk.

508 THE COURT: Do you want that as Defendant's Exhibit number 4?

MR. PICKENS: Yes, your Honor.

MR. HITZ: No objection.

(Defendant's Exhibit No. 4 was marked for identification and admitted in evidence.)

* * * * * *

509 SAMUEL B. BASSETT

* * * * * *

DIRECT EXAMINATION

BY MR. PICKENS:

Q. Would you state your full name? A. Samuel B. Bassett.

Q. And your address, please? A. Seattle, Washington. New World Life Building.

Q. And what is your business and profession? A. I am a lawyer.

Q. Are you a private practitioner? A. I beg your pardon?

Q. Private practitioner? A. Yes, I am.

Q. And you are a member of a bar? A. I am a member of the Bar of the State of Washington, for the City of Seattle, and the American Bar Association.

Q. How long have you been a member of the bar in the State of Washington? A. Since 1924.

510 Q. Are you a member of a law firm in Seattle? A. Yes.

Q. What is the name of the law firm? A. The name of the law firm is Bassett, Vance and Davis. Until very recently. Mr. Vance left the firm.

Q. Have you ever represented the Western Conference of Teamsters? A. Yes, I have.

Q. For how long? A. Oh, approximately twenty or twenty-two years. I have done their legal work when they were called upon.

Q. Have you represented any other affiliates in the Teamsters Union, any locals? A. Yes; I have represented the Joint Council of Teamsters in the State of Washington, which is composed of all the-

teamster local unions in the State of Washington.

I have also been counsel for the Western Conference of Teamsters.

Q. How about Local 174? A. Yes. I have represented all of the locals.

Q. Joint Council 28, I think, was another one that was mentioned here? A. Yes. I say the local unions in the State of Washington are affiliated with the Joint Council. Putting it the other way, the Joint
511 Council is composed of the local unions in the State of Washington.

Q. Mr. Kennedy I believe has testified that he had a conference with you, Mr. Brewster, and perhaps some others, on December 15, 1956. Do you recall that? A. Yes sir, I do.

Q. When was the first time that you ever talked with Mr. Kennedy? A. Well, it was approximately a week prior to December 15, 1956, at which time I received a telephone call from Mr. Robert F. Kennedy, who was at the time in Los Angeles. He identified himself as counsel for the Permanent Subcommittee of the Committee on Government Operations.

He asked me if I was counsel for the Teamsters Union and I said I was. I had done their work. He wanted to know if I could arrange a meeting for him with Mr. Brewster. He said that he was going to be on the Coast for about a week doing some work; he was going to come up from Los Angeles to Portland, and sometime before the end of the week he would like to meet Mr. Prewster.

I told him that I would endeavor to locate Mr. Brewster and arrange a meeting.

Q. Did you subsequently arrange a meeting? A. Yes sir, I did.

Q. Would you tell us about that in your own words? A. Mr.
512 Brewster had been out of the State for quite a while, and he was only going to be there from Friday evening until Monday morning.

It was agreed that Mr. Kennedy would interview Mr. Brewster on the early morning of Saturday, December 15th.

At that time Mr. Kennedy came to the headquarters of the Western Conference, accompanied by a Mr. Carmine Bellino and I introduced them. I met Mr. Kennedy a few minutes before we entered the building, and they proceeded then to Mr. Brewster and to interrogate him.

Q. I didn't mean to interrupt your train of thought, but had he discussed any subjects -- what subject did he discuss with you over the telephone before? A. Well, he didn't tell me. I inquired of him what he would like to know in order that Mr. Brewster could be prepared to answer any questions, and he said that the committee was making a general investigation of the Teamsters Union on the Pacific Coast.

He told me that they had a staff member who had been down in Portland for several weeks investigating Teamster unions in the City of Portland, Oregon, and that he and Mr. Bellino had been investigating down in Los Angeles. But he did not tell me exactly what they were interested in.

Q. Had there been publicity in the newspapers concerning that
513 investigation? A. Yes, there had been a great deal of publicity and Mr. Kennedy had been quoted in the Press, particularly in connection with vice in the City of Portland, and it was claimed that the Teamsters Union was connected with underworld characters or some of them had been organizers for the Teamsters Union in Portland. That is as much as I knew at that particular time.

Q. Now referring to a meeting that you had in Mr. Brewster's office, will you tell the Court as near as you can what Mr. Kennedy discussed and whatever you can recall concerning the meeting? A. Well, after the formalities, Mr. Kennedy asked Mr. Brewster if he knew an individual by the name of Goldbaum, I believe his name was.

THE COURT: How do you spell that name?

THE WITNESS: G-o-l-d-b-a-u-m. Mr. Brewster told him that he had met him and he wanted to know how long he had known him, whether he had engaged in any business with him, had he ever received any money from him, had Mr. Brewster ever paid him any money.

Mr. Goldbaum was identified as someone that Mr. Brewster had met at some race track and had become acquainted with him.

And Mr. Brewster was asked about several other individuals. I recall particularly a man by the name of Tom Maloney, whom I had
514 met once in Seattle and Mr. Brewster identified him and stated that he had known him, he had met him approximately twenty years ago, at Longacres Race Track.

I think he was asked then whether Mr. Brewster said that he was a member of the Horse Racing Commission for the State of Washington at that time, and at someone's request he had secured a job for him at the race track.

Mr. Kennedy inquired whether Mr. Maloney was an organizer for the Teamsters Union. Mr. Brewster replied that he had never heard of such a thing.

Then he wanted to know whether he was ever on the payroll of the Teamsters union. Mr. Brewster denied of ever having any knowledge of such a thing. I think it was made known at the time that Mr. Maloney had been living in Portland for several years.

Then he was asked about Mr. Elkins -- Jim Elkins, I think was his name. His name had been in the press in Portland, Oregon, in connection with vice that had been uncovered by the Portland-Oregonian, the newspapers and its reporters.

As I recall, Mr. Brewster told him he had only seen that gentleman once. He came to his office and, I believe, with Goldbaum, and Mr. Brewster said that he hadn't said four or five words before he threw him out of the office.

I think another man's name was mentioned -- a man by the name of Terry. No, I am not too sure of that. At any rate, he was simply
515 asked at that time to identify several individuals who at the time were residents of Portland, Oregon. I think a man by the name of McLaughlin was mentioned who formerly lived in Seattle but at that time was in business in Portland, Oregon.

Mr. Brewster was asked whether he had ever been in business with McLaughlin. He replied that he had not.

Finally, at the conclusion of this interrogation which consumed approximately a half an hour, Mr. Kennedy said that he would like, he and Mr. Bellino would like to examine the records of the Western Conference of Teamsters, and I inquired if he could tell me what particular records he was interested in, and he said they were interested in all of the records.

I said, "Well, well, when do you want to make your inspection?"

He said, "We would like to do it right now. Mr. Bellino is here and we are riding right into it."

At that time it was about eight-thirty or a quarter of nine in the morning, on a Saturday. The office was closed. The bookkeeper -- who had charge of the records -- was not there, of course, nor was any other employee of the building, and I made that known to Mr. Kennedy.

Then I said to him, "If you will just let me know what particular records you are interested in, I will see if we can't make them available
516 for you Monday."

He said, "No, that wouldn't do," and with that he reached in his pocket and took out two subpenas. I happen to have those here. And he handed them to Mr. Brewster. One was directed to him. Frank Brewster, Western Conference of Teamsters.

And the other was addressed to Frank Brewster, Joint Council No. 28, International Brotherhood of Teamsters, et cetera.

Q. Do you have any numbers on those subpenas? A. Yes, sir. The first one, Western Conference of Teamsters, is number 3632; and the other one, sir, is 3633.

Q. I wonder if you could just read 3632, just what documents it calls for? A. As I say, it was addressed to Frank Brewster, Seattle, Washington.

Q. I might say, this appears on Page 38 of Government's Exhibit 6. A. As I say, this was December 15, 1956. The subpenas.

however, are both dated the 26th day of November, 1956. I neglected to say that at the same time, I think a little later, Mr. Kennedy phoned back from Portland, and at that time he said -- that was before he got up to Seattle, he said, "While I am up there I would also like to interview Mr. LaPoma. Will you arrange to have him there at the same time you have Mr. Brewster?" and I told him I would, and I had
517 him there and he examined him briefly after he finished with Mr. Brewster.

After he served the subpenas Mr. Brewster left the room and then I went out and brought in Mr. LaPoma.

Q. In subpena 3632, would you just read the sentence or so as to what documents it called for? A. We were required to produce at Washington, December 27, 1956, at 10 a. m., Room 101, Senate Office Building, and produce the books and records of the Western Conference of Teamsters from the period from January 1, 1951 to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda, and Minutes of meetings.

The other subpena which is directed to Mr. Brewster as an officer of the Joint Council of Teamsters, called for financial records in the identical language and terms.

Q. Did you understand that he was demanding to go through all of your records? A. Well, sir, that is what I understood. Certainly this subpena, on the face of it, didn't omit anything. It wasn't confined merely to financial records, but to records of every kind and description. I think any lawyer would reach that conclusion from the reading of it.

Q. Did he at any time ever ask you for forms that the labor unions are required to [illegible] under Sections 9(f) and (g) and (h) of the
518 Taft-Hartley Act? A. No, sir, neither on that day nor on any other day did he ever ask me to produce or mention specifically registration forms that labor unions or organizations are required to file with the Department of Labor.

Q. Did he ever ask you for the forms - I believe they have been referred to as 990 -- that are required to be filed by tax exempt organizations, that are required to be filed with the Bureau of Internal Revenue? A. No sir, that, again, was never mentioned, until sometime later, after the Senate Select Committee had been established, and we had surrendered all of our records to them at that time.

They saw the Form 990's, I believe, tax exempt organizations file with the Internal Revenue Bureau annually.

Q. Did Mr. Kennedy ever tell you what the purpose of this investigation was at that time? A. No, sir. I never did know what the purpose was. Nor did he tell any of the officials of these organizations at any time in my presence what the purpose of the investigation was.

Q. By that, did he tell Mr. Brewster while you were present at the conference? A. No, sir.

Q. Were you present during all of the time that Mr. Brewster
519. and Mr. Kennedy were together at this conference? A. Yes sir, I was.

Q. Were you present at the time Mr. Kennedy was talking with Mr. LaPoma? A. Yes sir, I was there.

Q. Well, what did you think the purpose of this inquiry was? A. Well, sir, from what I had read in the press immediately before Mr. Kennedy came to Seattle, I concluded that the Committee was endeavoring to ascertain whether criminal characters had infiltrated labor organizations, particularly the Teamsters Union in Portland and they were trying to ascertain possibly whether that occurred at Seattle and other places.

Q. Have you ever had a similar subpena served on you around this period of time?

MR. HITZ: I object.

THE COURT: Yes, I think I will sustain the objection, unless you can show the relevancy of it.

BY MR. PICKENS:

Q. Well, during the conference with Mr. Kennedy, did he mention or did you mention anything concerning another subpena that had been served for the records of any of these labor organizations?

A. I think I stated one was served on Mr. LaPoma, after he was
520 briefly interrogated.

That subpena is -- I am looking for a number now. I don't find a number on it. It is the original directed to Nugent LaPoma. It directs him to produce the records of Local 174, and again it uses the identical language in identifying the records, as the other subpenas which had been served on Mr. Brewster.

Does that answer your question?

Q. Is that the one that appears on Government's Exhibit 6, page 47, of the record? A. Yes sir, that appears to be the subpena.

Q. During this conference did Mr. Kennedy ever tell you or discuss with you the power of the Senate to subpena these records?

A. Well, we did talk about that that morning, when I looked at the subpenas, and before Mr. LaPoma came down. I commented that I thought a subpena as broad as this and as lacking in particularity and as sweeping as this is, would certainly violate rights under the Fourth Amendment against unreasonable searches and seizures.

I commented at that time that within the last month that the Ninth Circuit, United States Court of Appeals, had knocked out a subpena issued by the Bureau of Internal Revenue, in terms very much like this.

Mr. Kennedy said, "Well, we are not bound by the rules that
521 apply to Government agencies. This is the Senate of the United States that is demanding this."

I said, "Well, I thought the United States was also bound by the Fourth Amendment." I still think that, incidentally.

Q. Had you been one of the attorneys in this case? A. Yes, sir I was. That was an action brought by United States at the behest of, I think they call it the Treasury Department now, the Bureau of Internal Revenue.

It is entitled United States of America against Local 174.

That is the same local I have been talking about here this morning. The agents had been attempting to investigate Mr. Brewster's tax returns covering a period of some ten years --

* * * * * * *

Q. Did Mr. Kennedy say you were familiar with that case? A. Yes. We didn't talk about it. The substance of what he said was that he wasn't bound by it and it didn't apply.

522 Q. Now subsequent to this meeting on December 15, did you have any communications with Mr. Kennedy or members of the staff or members of the subcommittee of the Permanent Subcommittee? A. Yes, I did. I communicated a telegram to the chairman of the Committee. I didn't write to Mr. Kennedy. * * *

* * * * * * *

Q. Immediately after -- did you communicate with Mr. Kennedy or any other members of the committee? A. Yes, I did. I prepared a telegram on behalf of Mr. Brewster concerning the subpenas that had been served on him.

523 Q. Might I ask, Mr. Bassett, if this telegram appears on a page of Government's Exhibit 6? A. Yes sir, that is it.

Q. Did you receive any response to this telegram? Let me ask you first, identify it. To whom was it sent? A. I beg your pardon?

Q. Let me ask you to identify it first. To whom was it sent? A. To the Honorable John L. McClellan, Chairman of the Senate Permanent Subcommittee on Investigations, of the Committee on Government Operations.

Q. I wonder if you would mind reading it in the record at this point? A. Yes, sir.

"Summons Nos. 3632 and 3633 served on me December 15, 1956, require that I appear before your committee in Washington, D. C., on December 27, 1956, and at that time produce the books and records of the Western Conference of Teamsters and of Joint Council No. 28 of

the International Brotherhood of Teamster 'for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memorandums and minutes of meeting'. Obviously
524 these records covering a period of five years would necessarily have to be shipped by truck or by rail. Furthermore, my counsel and I would naturally like to spend Christmas at home and, although counsel and I are willing to leave here on any flight on the afternoon of Christmas Day, we are not able to secure transportation on any flight leaving here for Washington, D. C., either on December 25 or December 26. We are advised that other officials of the teamsters union residing in Los Angeles, San Francisco, and Seattle have been summoned to appear before your committee on January 15, 1957. Under these circumstances, we request that our appearance be deferred until a January date convenient to your committee. We have not been advised concerning knowledge of the particular matter in which your committee is interested and the summons on its face asks for a general search of our records, papers, and documents, and not confined to matters which might be relevant to the inquiry. For these reasons, we reserve the right when we appear before your committee to invoke the fourth amendment to the Constitution, prohibiting unreasonable searches and seizures.

"Signed, Frank W. Brewster, President."

Q Now who aided in the preparation of this document - anyone?

525 A I doubt it.

Q Now, did you receive any answer to that telegram? A Yes sir, we got an answer telling us briefly that Mr. Brewster's appearance

before the committee had been postponed until January 15th, I believe, although that telegram is not in my file. I think it was directed to Mr. Brewster, and I didn't get it in my file.

Q. Do you know whether or not that is the telegram that appears on Page 40 of Government's Exhibit 6? A. Page what, sir?

Q. Page 40? A. Yes, sir. It is very brief, and I remember that a copy of it was sent to Senator Jackson.

Q. Now did you have any communication with Mr. Kennedy or Senator McClellan or other members of the committee after this one of December 19th? A. Yes, sir. I have a carbon copy here of a telegram that I prepared and signed, addressed to Senator McClellan of the Select Committee to Investigate Improper Activities in Labor-Management or Relations.

Q. What date is that? A. That is dated February 17, 1957. It went out as a night letter and it is possible it is dated February 18 in the record. Is that in the record?

* * * * * * *

527 Q. Mr. Bassett, following the receipt of the answer to this telegram from Chairman McClellan, did you draft any other telegrams or communications to the Chairman or Mr. Kennedy? A. Yes, sir; January 30.

Q. January 30? A. I think that was my next communication. Is that what you had reference to, Mr. Pickens?

Q. That is what I had reference to. A. Yes, sir.

Q. I don't believe that is appearing anywhere in this record, so I will ask you -- I have already supplied counsel with a copy, and here is a copy for the Court (handing).

I will ask you to read that telegram, Mr. Bassett.

MR. HITZ: Your Honor, I object to that as being irrelevant.

THE COURT: Let me read it first. I will have to see what

528 it says.

(There was a brief pause.)

MR. PICKENS: I think maybe I am a little ahead of myself, your Honor.

THE COURT: Which one are you offering, the first one?

MR. PICKENS: The first one is January 30, but I think perhaps I should question this witness a little bit further.

THE COURT: January 30, 1957?

MR. PICKENS: That is correct.

THE COURT: The telegram of Mr. Brewster to the Honorable John L. McClellan, Chairman?

MR. PICKENS: That goes to the issue of purging, and I have not quite reached that, so I guess I had better perhaps desist until I do.

THE COURT: Will you state your objection, Mr. Hitz?

MR. HITZ: Yes, your Honor. We object to it as being irrelevant, and if it bears upon the so-called defense of purge, it is still irrelevant because purge is not a defense to this offense.

That is U.S. v. Norris, page 564.

THE COURT: Give me that citation again. U.S. versus Norris?

MR. HITZ: 300 U.S. 564. In that case Norris, the day after he had given perjurious testimony, appeared before the same committee of Congress and admitted that he had testified falsely. At his trial he
529 sought to have the jury instructed that if that were true, and if the same session of the committee was still going on, that the interests of truth and to obtain testimony would indicate that he should be acquitted.

That instruction was refused.

We think testimony on the subject is inadmissible.

THE COURT: I will hear the other side.

MR. PICKENS: This case, your Honor, is different from the Sinclair case, and these other cases, where the contemnor has taken the position that the Senate itself, or any Senate committee, had no authority to question him concerning these matters. That was not Mr. Brewster's contention. He contended that -- in fact, told the

committee that he would testify when a lawful, competent committee was established, but that he was questioning the authority of this committee, and the two subpoenas were illegal searches and seizures under the Fourth Amendment. Almost an identical subpoena by the Bureau of Internal Revenue had been so held to be in a decision in the Ninth Circuit.

So this is an entirely different situation than where a witness contends that Congress does not have the authority to look into his affairs at all. Here he is merely saying that this committee did not have, and I think that you do have the issue of good faith in this situation, where you don't in others, and the fact that he later appeared
530 voluntarily before the committee and produced all his records and testified for five dfull days and answered all their questions. I think it is an entirely different situation than where a witness has already perjured himself and where he comes back and recants.

We claim that in this situation, since this power of contempt one of the Houses of Congress derives not from the Constitution, but is inherent, because, on the issue of self-preservation, that once a witness under the circumstances that Mr. Brewster was, has appeared before another committee, he has removed all obstruction to legislative process, it is our contention that he cannot be held in contempt.

And all of these telegrams, and other testimony that I will offer later, go to that issue. I do not think the Norris case is any authority on that.

THE COURT: I think I follow you.

As I take it, it is your contention that if a man -- we will take Mr. Brewster and use him as an example -- is called before a Senate Committee to produce certain papers, memoranda, correspondence, et cetera, pursuant to subpoenas lawfully served upon him, that man appears before that committee either in executive or public session, and, acting on the advice, we will say, of his attorney, he refuses to answer certain questions principally on the ground that he contends that

the committee did not have the lawful authority to propound those
531 questions, and those questions are not pertinent to the inquiry --

MR. PICKENS: That is correct.

THE COURT: -- he, in effect, has he not, challenged the jurisdiction of the authority and power of that committee?

MR. PICKENS: That is correct.

THE COURT: Let us take one step at a time. He has stated, in effect, "I refuse to answer those questions" even though they were repeated to him on more than one occasion by the Chairman. Then later on a special committee is set up which has, we will say, broader powers. Then he decides, through his counsel that he engaged for himself, "Well, Now I will go before the second committee and testify freely."

In other words, does not that make him the judge and jury, or the final say so as to whether or not that first committee was lawfully set up and was given lawful authority to propund those questions?

MR. PICKENS: Well, he, of course, is taking the risk that if he is wrong, why, then he can be held in contempt.

THE COURT: Let me stop you there. I think you have put your finger right on it. He takes the chance that if he is wrong as to challenging the jurisdiction and authority of the committee, he might be held in contempt.

Now, the mere fact that he might go back later, without any showing that the Senate has excused him, that is the committee, that
532 they recalled any citation that might have been isuued to the U. S. Attorney -- In other words, suppose you have a little simple divorce, like we have many of right here, where a man has been ordered by this Court sitting as an equity Court, to pay we will say $100 a month alimony to his wife, and the attorney for his wife, or the plaintiff, comes into Court and says "We want the defendant adjudged in contempt of Court for this reason, that the defendant has not complied with your request." The Court calls the defendant to the

bar of justice and sentences him, we will say, 30 days. Now, if within the 30 days, while he is serving the sentence, he gets some money to pay up the arrears, that does not mean that he is automatically purged of the contempt, does it? That might be taken into consideration by the judge, and the judge has the power, I think, if he wants to, to release that man.

Now, it seems to me you might have an analogous situation here. Just because Mr. Brewster appeared before one committee and he saw fit to challenge the jurisdiction and the authority and power of that committee, you might say that he took his chances, even though he might have acted on the advice of counsel, then can you say that you are going to leave the matter entirely up to his counsel's judgment and his judgment, because the select committee that was set up satisfied them that the select committee had the power to investigate these matters,
533 then they would go in and testify before the second committee, the select committee, and be excused of their conduct in the first investigation?

I think that is the way this case shapes up at this point.

MR. PICKENS: Well, this case, I think, is unique because here you have a situation where members of the Senate were themselves questioning the jurisdiction and authority of the committee; you have the Chairman of the Committee at least going back and asking for authority to do what he went ahead and did without authority; you have the entire legislative purpose of that subcommittee, insofar as it bore on labor racketeering, transferred over to this new select committee, and I submit that some of these telegrams show, at least in our view, that the indictment was pressed in what I would not consider good faith, because it was pressed, oh, four days after Mr. Brewster, after he had sent a telegram that indicated that he had opened his files to the investigators, that indicated that he was going to appear and testify fully before the Committee.

Now, I recur back to the Watkins case. The Supreme Court says if Congress wants to transfer this power to the Federal Courts in these situations, they have to abide by the Bill of Rights and all the other parts of the Constitution. And I say that if Mr. Brewster has removed all obstruction to the legislative process, that to indict him after that
534 and to try him for contempt is just a purposeless invasion of his Constitutional rights.

THE COURT: Well, if he had purged himself or if the Senate Subcommittee had felt that he had purged himself, wouldn't it have been up to that committee through the Chairman to say "Well, all right, we will forget about the fact that you refused to answer on a previous occasion; we think you have purged yourself of any contempt, if you did commit the crime of contempt, and we will go ahead and listen to you now."? But has there been any showing that anybody on that committee, the Chairman or members of the committee, told Mr. Brewster when he appeared the second time before the Select Committee, that they had excused him if he did commit the contempt before the first committee?

Now, if there had been some showing like that, you might be in a different situation, I don't know. I am not saying that you would, but it seems to me that the crime of contempt might have been completed once he has refused to answer and taken the chance to challenge the jurisdiction of the committee.

Now maybe you can convince me otherwise.

MR. PICKENS: Well, he could not appear before the same committee. your Honor recognizes that, because of this jurisdictional fight, and they transferred the question under inquiry, in the same investigation, over to this other committee.

535 Now, I will say this, that when Mr. Brewster finished testifying on March the 22nd, Senators Mundt and Goldwater came down after the hearing and congratulated him and thanked him for appearing again before the Committee and testifying fully and fairly. I can show your Honor a statement in the record, I think of May the 8th, where Senator Mundt again said that Mr. Brewster had appeared like a good American.

and had answered all the questions that the Committee propounded to him.

Now, if he can't raise this as a defense now, it seems to me the government is setting a trap for him. Here you are allowing the Senate, instead of using the powers of contempt before the Senate, to transfer him to the Federal Court and leave him there. And, if the Senate never does anything about it, under what your Honor tells me, then he is stuck. I mean, they are putting him in a trap from which he cannot remove himself, and I think that in itself is an unconstitutional invasion of his rights.

In every case -- and I have about 30 of them, I think, from Hines' Precedents -- before we have this roving commission that Chief Justice Warren talks about, since World War II, when the Senate and the House were exercising their contempt power before their power, in every case where a witness ever came back to the Senate and either answered the question fully or stated the reasons why he had not answered them, I do not believe there is a case on record of where the Senate has refused

536 to absolve him of that contempt. And it seems to me --

THE COURT: Let me stop you just there.

Has the Senate excused him in this particular case? Have they done anything to withdraw the citation, or have they taken any steps to say to the U.S. Attorney that "We don't want this man prosecuted," or anything like that in this case?

MR. PICKENS: No they have not, your Honor, and it is this bad, that two or three weeks after Mr. Brewster sends this one telegram, three or four days after he had allowed the investigators to have all the records of the Western Conference Joint Council 28, and other records, and when Senator McClellan got up on the floor of the House and introduced this resolution, he did not indicate to the Senate in any way that he had had any intimation from Mr. Brewster that he would testify; he failed to tell the Senate that his investigators were already going through Mr. Brewster's records; instead, he stated that Mr. Brewster was thwarting the authority of the United States Senate.

So, it seems to me that where an indictment is brought under those conditions, that Mr. Brewster is helpless; he can't appear on the floor of the Senate, and it seems to me under those situations that the Court is depriving him of his Constitutional rights in refusing to allow him to raise the issue of the fact that he has purged himself.

537 THE COURT: I am not going to refuse. I think you can make a proper proffer of proof, by this telegram. Make the proffer and read it into the record, and then I can make my ruling on it, and then you will have the record protecting you.

MR. PICKENS: All right, sir. Your Honor is not ruling at this point, however?

THE COURT: I will let you make a proffer of proof, of what you expect to show in connection with your defense that he has purged himself of any contemptuous action, now.

And I might say that this kind of evidence might be important bearing on any mitigation of any punishment that might be meted out I mean, showing what he did later, but I don't think it offhand -- I am not making a final ruling, because I am going to give you the opportunity to make a proper record and to make a proffer of proof.

MR. PICKENS: Well, I would like to make my proffer of proof, but later on, of course, to make the record complete, I would like to make the remainder of it through the testimony of Mr. Brewster so that I can show that he did answer every question on every subject that the 31 counts of the indictment turn on.

PROFFER OF PROOF

Now, I offer to prove, your Honor, through Mr. Bassett and through Mr Brewster's testimony, that he appeared -- or let me put it this way: that he, on January 30, 1957, informed the Chairman of

538 the Committee that, in accordance with his statement on January 16 and 19, that he would appear before any lawfully constituted committee and answer any questions; that he informed the Chairman of the Permanent Subcommittee on Investigations that, in accordance with that statement, and in view of the fact that that day the Senate Resolution 74

had passed the Senate and a new Select Committee had been authorized, that he offered to appear before that Committee and testify fully and fairly as to any questions that they might propound to him.

I offer to prove that the Chairman of the Committee responded on February 20, 1957, and stated that, under the cognizance of the subpoena that had been served, the subpoenas that had been served on him to appear on January 16 and January 19, that they asked him to appear again before the Subcommittee on February 28, 1957.

I offer to prove that Mr. Brewster came to Washington, and, on February 28, reported in to the counsel of the Committee, or Chairman of the Committee, and that he appeared and reported in either personally, or by telephone, and kept himself available from February 28 until March 15 on which day he testified before the Select Committee of the Senate.

I offer to prove that he testified on the 19th, the 20th, the 21st and the 22nd, and that he answered all the questions propounded by the Chairman, the counsel, and other members of the Committee, which
539 touched on every subject that the Subcommittee and its members had quizzed him on, on January 16 and January 19, 1957, when he challenged its jurisdiction.

MR. HITZ: Could I interrupt just a moment?

Before whom did he report? You just said "reported."

Could you clarify that, please? Was it a committee, like the Subcommittee, or the Select Committee?

MR. PICKENS: Well, I will say he reported to Chairman McClellan and Robert F. Kennedy, esquire.

It is my understanding that Mr. Kennedy was transferred from the payroll of the Permanent Subcommittee on or about February 26 or 28, to the payroll of the Senate Select Committee.

I offer to prove that during the time he was in attendance, and on March 21, 1957, a further subpoena was served upon him demanding further personal records, and that on a subsequent day in April, 1957, through his counsel, Mr. Samuel Bassett, esquire, he turned over all

personal records that were required by the Chief Counsel to the Committee.

I offer to prove that all of the questions that were propounded to him on January 16 and January 19, 1957, and all records demanded of him at that time, and many more, have been produced to the Senate Select Committee.

* * * * * *

540 THE COURT: Do you wish to make an objection to that?

MR. HITZ: Yes I do, your Honor.

We make our same objection and for the same reason, and with additional matter I would like to point out to the Court. On the 16th when Mr. Brewster appeared --

THE COURT: What page is that?

MR. HITZ: Page 44 of Government 6, your Honor -- and after he had made his objections to the authority of the Committee, the Chairman, towards the end of this session, had this to say:

THE COURT: What part of that page?

MR. HITZ: A little below the middle:

"The Chairman. That is a subject which we will bring up in a business meeting of the committee, and discuss and resolve. The immediate thing I want to determine here is whether we are confronted with a problem which can only be resolved by authorized and established procedures, or if we can pursue it in the usual and ordinary course of the performance of our duties. If we cannot, then we will have to take up other issues on the question.

"But, under the circumstances, the Chair is thoroughly convinced, and I believe the members of this committee are, that this committee does have jurisdiction over the subject matter under inquiry, that it has a right to subpena the records that are
541 prescribed in the two subpenas the witness has received, and with the knowledge he has received.

"As of now, the Chair holds that the question of jurisdiction raised, and the alleged violation of the search-and-seizure provision, the fourth amendment of the Constitution of the United States, are not tenable; they are not well founded. But I want to be exceptionally fair and considerate.

"We have hearings scheduled for tomorrow. At that time we will be going into other similar matters. If there is no objection on the part of the committee, I will dismiss the witness until tomorrow morning at 10 o'clock, and let him and his counsel have an opportunity to think this matter over. At that time they will come before the committee again and we will proceed to ask those questions which we expect him to respond to.

"If you then refuse, the committee will consider what action under those circumstances it should take." And then, on the following page, 46, the same matter is pursued to a finality:

"The Chairman. If you come in in the morning and in good faith tell me you will produce the records, that is another consideration. I am not saying what action the committee will take."

542 And I am interrupting for a moment.

The Chairman does not even say that tomorrow morning would constitute a purge.

And now continuing to read:

"Mr. Brewster. I wondered what the difference would be between this afternoon and tomorrow morning.

"The Chairman. I will give you every opportunity. I hope I am leaning over in your direction to be fair.

"Mr. Brewster. Thank you very much."

And the next witness was called. And then it was on the 19th -- not the next morning -- that Mr. Brewster persisted and he finally was cited for contempt for that.

So I am merely pointing out that the rights of the witness and the so-called trap that my friend on the other side has mentioned here do not exist. Every possible opportunity was given to this witness, and he

cannot and should not be the judge of the time and the place and the subcommittee before whom he should give his testimony.

The Norris case is absolutely in point on a much more serious matter.

THE COURT: All right. Mr. Pickens.

MR. PICKENS: Well, your Honor, this is a sort of vicious situation. I cannot see that just because Chairman McClellan again reiterates that he has jurisdiction, and says these subpoenas are not
543 unlawful searches and seizures, but Mr. Bassett and Mr. Brewster have a perfect case in the Ninth Circuit that says they are, so it seems to me that when someone comes in, in all humility, and says "I question your jurisdiction; I am not questioning the jurisdiction of the Senate, I am questioning the jurisdiction of this committee, and when a lawfully constituted committee is set up, I will appear and testify," it is certainly no contempt for me to question the jurisdiction of this Court, and it seems to me in this situation, where he does it in good faith -- and all these telegrams and other evidence will show he did it in complete good faith, and follow right on to the end.

If the Senate wants to try these things before the bar of the Senate, then well and good. If they want to shift them over to the Federal Courts, then, as I think Chief Justice Warren says today, they are going to have to give these witnesses some consideration. And you don't have a right to haul a witness before any committee and ask him any question you want to. I think that theory yesterday was completely exploded.

THE COURT: I am sorry, I cannot agree with you, Mr. Pickens. I will sustain the objection.

* * * * *

544 MR. PICKENS: Your Honor, in order to preserve the record, I would prefer to read these three telegrams in the record. If you would rather I would just offer them --

THE COURT. I think in order to preserve your record, you should be permitted to do that, and I will make the same ruling.

MR. PICKENS: Very well.

May I read them in?

THE COURT: Yes.

MR. PICKENS: Thank you.

This is part of my offer of proof, your Honor:

I am reading from a telegram dated January 30, 1957.

"Western Conference of Teamsters, Seattle, Washington, January 30, 1957.

"Honorable John L. McClellan, Chairman, Permanent Subcommittee on Investigations of the Committee on Government Operations, Senate Office Building, Washington, D. C.

When we appeared before your subcommittee commencing January 15, 1957, we declined to produce financial records in
545 response to subpoenas served on us primarily for the reason that the subcommittee was proceeding in excess of its lawful authority. At the closed session hearings we attempted to make it clear that it was not our desire to conceal information or to obstruct the work of the Senate, and that when a lawfully authorized committee had been designated by the Senate to inquire into the financial affairs of labor unions, we would appear before such committee and furnish all relevant information requested of us. A similar statement was given to the Press in Washington, D.C. on January 16, 1957 and was published in Seattle newspapers on that day. We now understand that the Senate has appointed a special committee with broad powers to investigate the affairs of labor unions, and for this reason we hasten to assure you that we will furnish the committee all relevant information and records when requested and we shall appear and testify as you may require."

Signed: "Frank W. Brewster, Chairman, Western Conference of Teamsters and President Joint Council 28."

Signed also by: "Nugent LaPoma, Secretary-Treasurer; Teamsters Union Local 174."

The next one is dated February 17, 1957, Seattle, Washington. It

is addressed to the Honorable John L. McClellan, Chairman, Select
546 Committee to Investigate Improper Activities in Labor-Management Relations, Senate Office Building, Washington, D. C.

"On Friday morning, February 15, 1957, two staff members employed by your committee, Messrs. Bellino and Thompson, appeared at the Western Conference of Teamsters' Headquarters here in Seattle, and requested that the financial records and documents of the Western Conference be made available for their perusal. In accordance with the telegram sent to you on January 30, 1957, by Frank Brewster, President of the Western Conference of Teamsters, Messrs. Bellino and Thompson were informed that these records were available for their study, and the Western Conference Accounting Office was instructed to cooperate with them. All records requested were then made available, and Messrs. Bellino and Thompson examined such records and made private notes therefrom.

"You no doubt intend to call certain officers and agents of the Western Conference to testify before your committee. We believe you will want to give them a full and fair opportunity to testify, so that all relevant and material facts may be fully presented. We request, therefore, that before any officers or agents of the Western Conference are interrogated informally by
547 the committee staff, or formally before the committee, concerning any financial matters considered 'improper' or 'irregular', that the attention of such witnesses be directed to the same in writing. Such procedure is not only consistent with traditional concepts of fair play, but will also expedite the inevestigation and the hearings, and aid the Congress in its quest for the facts."
Signed: "Samuel B. Bassett, Attorney for the Western Conference of Teamsters."

The third telegram is:

"Washington, D. C., February 20, 1957. 2:10 p. m."

It is addressed to Samuel B. Bassett, Attorney for the Western Conference of Teamsters, Teamster Building, Seattle, Washington.

"You are advised that the following telegram is today being sent to your client, Frank W. Brewster:

'Under the recognizance placed upon you and to which you agreed when you testified before the Permanent Subcommittee on Investigations of the Senate Government Operations Committee on January 19, you are directed to appear again before said committee at its committee room 357, Senate Office Building, Washington, D.C., at ten o'clock a.m. on Thursday, February 28, 1957. Please
548 acknowledge'."

It is signed: "John L. McClellan, United States Senator, Chairman of the Senate Permanent Subcommittee on Investigations."

I believe I have one more.

I have one dated February 20, -- also February 20 -- 1957. It is addressed to Samuel B. Bassett, Attorney for the Western Conference of Teamsters, Teamster Building, Seattle, Washington.

"Re your telegram February 18, the testimony of certain officers and agents of the Western Conference of Teamsters will no doubt be required by the Select Committee in the course of its investigation. It will be impractical and impossible for the committee to advise such officers and agents in writing, prior to their appearance before the committee, of all matters about which they may be interrogated. It will be possible and desirable to have members of the staff confer with witnesses prior to giving of their testimony. From such conference, and at such time, they will be able to understand generally the line of questioning that will be followed and where it is practical to do so they will be advised specifically with respect to certain information that is desired."

Signed: "John L. McClellan, United States Senator, Chairman of
549 the Select Committee on Improper Activities in the Labor-Management Field."

Those are the four telegrams that are a part of my offer of proof, your Honor.

THE COURT: I make the same ruling.

BY MR. PICKENS:

Q. Recurring, Mr. Bassett, to the conference you have testified concerning with Mr. Kennedy and Mr. Brewster on December 15, 1956, do you remember any other remarks that Mr. Kennedy made, or any comments he made concerning what Mr. Brewster had told him? A. Well, I recall near the end of the interrogation he told Mr. Brewster that he hadn't been -- that he hadn't told him the truth, in substance is what he said to him, about his knowledge of these characters who had been mentioned.

I don't recall anything else, unless you can recall my attention to it, Mr. Pickens, at this time.

Q. Well, prior to January 16 and when you came to Washington, did anyone, any committee member of Mr. Kennedy, or any staff member, ever tell you what the purpose of the investigation was? A. No, sir, we were never told. As those telegrams you read indicate, we were never told specifically what the committee was investigating, and we depended a great deal, of course, on what the newspapers said. Finally along about the 7th of January, as I recall, we read in the newspaper
550 that Seantor Ives of New York, who was a member of the Committee on Labor and Public Welfare, had introduced a resolution asking for authority to investigate improper practices in labor unions, or something to that effect.

And we also read on the same day that Senator McClellan had introduced a similar resolution asking for appropriation to investigate the same subject matter, and that both these resolutions had been laid on the table.

Later I read the resolutions in the Congressional Record together with the speech that each Senator made on the floor of the Senate in support of his proposed resolution.

Q. Did you inform Mr. Brewster of these things prior to January 16? A. Yes, sir, I did that, sir.

Q. Did you appear at the hearing on January 16 with Mr. Brewster? A. Yes, I did.

Q. And on January 19, 1957? A. Yes, sir. I was there.

Q. At any time prior to the time that Mr. Brewster started testifying was any statement ever made concerning the purpose of the inquiry? A. No, sir. However, just before, I think after Mr. Brewster had been sworn, in executive session he was asked whether he had seen
551 or read a statement that the Chair had put in the record, and I think a few moments before that someone had passed us a mimeographed copy of the statement in which Senator McClellan outlined in great detail what the purposes of this investigation was.

Q. I ask if that appears on pages 1, 2 and 3 of Government's 6? A. Yes, sir. That is what I was just looking for. That is the statement that I think we saw in mimeographed form just about the time Mr. Brewster was called as a witness.

Q. Were you permitted in the hearing room when Judge Leedom of the National Labor Relations Board testified? A. No, sir. We didn't know it. We didn't know that he had testified until we read about it in the Press later that afternoon. We were kept waiting on another floor and we were not called until the afternoon of that day.

Q. Did you know that the Honorable James Paul Mitchell, the Secretary of Labor, testified before the Committee? A. No, sir.

Q. Prior to the time that you appeared? A. No, sir.

Q. Did you know that Justin F. Winkle, Assistant Commissioner of Internal Revenue, and John P. Barnes, the Chief Counsel of the Internal Revenue Service, had testified prior to you? A. No, sir, we
552 had not. I think we read about it in the newspapers that night.

Q. Could you, or did you gather -- A. I should say this, Mr. Pickens, if I may add, that the press reports did not indicate what these gentlemen had testified to. It was simply a statement that they had appeared in executive session.

Q. And when did you first learn of their testimony? I mean when did you first read their testimony? A. I think it was after they were furnished in typewritten form. I think, before this printing appeared. It was printed in typewritten form, but that was after the hearings were over, so far as we were concerned, and some days afterwards.

Q. Could you gather from the statement of Chairman McClellan, that you saw on this mimeographed sheet, what the purpose of the investigation was? A. Well, frankly, I was somewhat confused because it related to many matters. It related to matters that occurred during the preceding year. I think you will catch it, if you read this statement. And then it had to do with misuse of union funds, and it touched on whether the Department of Labor had authority to investigate the reports that were filed by labor organizations, and whether the Treasury Department, Bureau of Internal Revenue, had a right to inspect the
553 records of tax exempt organizations.

That was all in there. That is the first time I had ever heard that mentioned, frankly, those two items.

Q. Now, on January 19 do you recall whether or not the Chairman made -- January 19 was an open hearing, was it not? A. Yes, sir.

Q. Do you recall whether the Chairman made an opening statement? A. I think he did.

Q. Had anyone made available to you the testimony of January 17 and the testimony on January 18 prior to the time that you appeared with Mr. Brewster on the 19th? A. No, sir. No, sir, we attended the public sessions then, the public hearings, and there were some people, a good many of them from the State of New York, who testified for a couple of days before we were put on. I think Mr. Brewster and Mr. LaPoma were the last two witnesses, as I recall it.

Q. Now, during the time that Mr. Brewster testified on January 16 in executive session, did you advise him concerning the authority and jurisdiction of the Committee? A. Yes, sir. I not only advised him, but I prepared a statement for him to read to the Committee, stating
554 the reasons why he had not brought the records that were subpoenaed and I think there were just two points made, and I don't know

whether -- Has that been a printed record?

Q. I wonder if you would look at page 42 of Government's 6 and see if that is one of the statements that you prepared for him? A. Yes, sir. Yes, sir, there were two; one in response to the subpoena served on him as President of the Joint Council of Teamsters No. 28, and then there was another one, and in substance identical, with reference to the one that required the production of the records of the Western Conference of Teamsters.

Q. Now, at the hearings on the 19th was the same statement read, do you recall? A. By the Chairman?

Q. No, by Mr. Brewster. A. Yes, sir. Yes, sir. You mean at the public session?

Q. That is correct. A. Yes, sir.

Q. I ask you to look at page 214 and see if you can identify that? A. Yes, sir, that seems to be it.

Q. And was it also read or at least printed in the record concerning the Western Conference of Teamsters? A. Yes, sir.

555 Q. I ask you to look at page 213 and see if that -- A. Two what? 13?

Q. Page 213. A. Yes, sir, down near the bottom of the page.

Q. Now, on page 38 I ask you to look at the two subpoenas, one numbered 3632 and the other 3633, and ask you if you advised Mr. Brewster concerning those subpoenas? A. Yes, sir, I did.

Q. And what was your advice?

* * * * *

556 THE COURT: Hasn't it been your position all along during this case that Mr. Bassett not only prepared the statement for Mr. Brewster to read to the Committee, and in that statement he challenged the jurisdiction and authority of the Committee? That has been your position, has it not?

MR. PICKENS: That is right.

THE COURT: Or I will ask Mr. Bassett to testify whether that is correct.

THE WITNESS: Yes, sir, and I think, however, your Honor, this relates to another matter.

THE COURT: I understand.

THE WITNESS: That is point two, the unconstitutionality of the demand.

THE COURT: I understand.

And there has been testimony in this case, I understand, Mr. Bassett, and I don't think it has been contradicted by the Government,
557 that Mr. Brewster was relying on the advice of counsel.

That is correct, is it not, although you contend that does not excuse the defendant?

MR. HITZ: We contend that does not excuse him under the Sinclair case.

THE COURT: I understand.

I cannot see any harm in letting this testimony in. I mean, it seems to me it is along the line that has already been developed.

You gave your opinion about these subpoenas?

THE WITNESS: Yes, your Honor, I did, and I --

THE COURT: Let me ask you a few questions.

Do you mind my interrupting at this point?

MR. PICKENS: Certainly, your Honor; go right ahead.

THE COURT: Mr. Bassett, you have been an attorney and practicing lawyer for 25 years or more, in Seattle, I take it; correct?

THE WITNESS: More than 30 years.

THE COURT: Now I realize that there is a confidential relationship of communication that exists between attorney and client. Of course, probably that has been waived by you testifying freely in this case.

THE WITNESS: No doubt about that.

THE COURT: Now, at any time that you talked to Mr. Brewster
558 about advising him about his rights as to what he could do with respect to challenging the authority of the Committee, that if he went to Washington and raised these legal points, that if it were determined

later that you were wrong, did you ever tell him that he might have to suffer the consequences by relying on your advice?

THE WITNESS: Yes, your Honor, that --

THE COURT: I mean, could you answer that question?

THE WITNESS: Yes. Yes.

THE COURT: What did you tell him about that?

THE WITNESS: Well, I told him that we could be mistaken, of course, and if we were mistaken there was the possibility or probability of a citation for contempt.

* * * * *

559 CROSS-EXAMINATION

BY MR. HITZ:

Q. Mr. Bassett, you stated what your belief was of the purpose of the subcommittee in its investigation, and that it was to investigate the participation of the union members of the teamsters union in vice and gambling in Portland and other similar areas.

Is that about what you told us? A. The officials of teamster unions.

Q. The officials? A. Yes, that is the substance of it, and I gained that impression from reading the Press.

560 Q. Now, did you discuss that view of the committee's purpose with Mr. Brewster? A. Yes, sir. Indeed, I told him that I thought that that was what he was going to be interrogated about, and as it turned out that is exactly what he was interrogated about, and nothing else.

Q. But that was not brought out in the answer -- A. You are talking about December 15, now, Mr. Hitz?

Q. Beg pardon? I can't hear you. Will you talk louder, please. A. Yes, sir. Are we talking about the same thing now, December 15, 1956?

Q. Yes, that is right. A. Yes, sir.

* * * * *

Q. Now to get back and to stay on, rather, the December 15 conference out in Seattle, was that Mr. Brewster's office? A. Yes, sir.

it was in the offices of the Western Conference of Teamsters. I don't think it was in his private office; it was in an office adjoining it.

Q. And that was on a Saturday, a Saturday morning? A. Saturday

561 morning.

Q. Early Saturday morning? A. Yes, sir. About 8:15.

Q. Now, do you recall the conversation getting to Mr. Shefferman? A. It seems to me that name was mentioned that morning. You see, I can't remember all of them.

Q. No, of course not. A. I believe so. But I don't know now whether that was asked to Mr. Brewster or Mr. LaPoma who was interrogated immediately afterwards, but I think it was Mr. LaPoma who was asked that question.

Q. Well, let's see if this will refresh your recollection:

Do you remember Mr. Kennedy asking Mr. Brewster questions about how the Western Conference checks were signed, that is, who on behalf of the Western Conference would sign them, and Mr. Brewster stating that they would be signed by Mr. Beck and himself? Do you remember that now? A. Mr. Hitz, I frankly and honestly --

Q. I wonder if you could talk a little louder? I can't hear you, sir.

A. I say. I honestly don't have a distinct recollection that that question was asked of Mr. Brewster on December 15.

562 * * * * *

Q. Was the subject matter of who had authority to sign the checks of the Western Conference union, was that subject matter touched upon in the conference on December 15? A. I do not recall that the subject matter was discussed on the 15th of December, 1956. That is my best

563 recollection.

Q. Now a little further, possibly to refresh your recollection, did Mr. Brewster state to Mr. Kennedy that both Mr. Beck and he had to sign those checks, and that it was the practice of Mr. Brewster to sign checks without having the payee or the amount written in, that is to sign them in blank and to give them to Mr. Beck, particularly when Mr. Brewster would have to be out of town for a period? Was that subject matter touched upon in the conference? A. I again say, sir,

that I do not recall that it was, but I do know that at some time Mr. Brewster has made such a statement, either under oath or in conference, but I don't believe it was touched on at that conference on December the 15th. I could be mistaken.

Q. And further to seek to refresh your recollection, do you recall that Mr. Kennedy was asking Mr. Brewster about the connection between Mr. Shefferman and the Western Conference, and that Mr. Kennedy asked Mr. Brewster whether Mr. Shefferman had ever done any work for the Western Conference or the teamsters' unions, and that Mr. Brewster replied that Mr. Shefferman had never done any work so far as he knew that would require payment by the Western Conference or any teamsters union?

Do you recall that subject being touched upon in the conference?

564 A. No, I -- I am beginning to recollect that maybe that is so, maybe he did ask him that question. I remember something about Mr. Brewster saying that he had seen Mr. Shefferman at conventions of the Western Conference.

Q. Do you recall at that conference that Mr. Brewster said that at some time or other before then, Brewster had seen a check which bore Mr. Shefferman's signature on the back of it by way of endorsement, but that Mr. Brewster stated in this conference that when he signed the check, that later bore Mr. Shefferman's endorsement on the back, that it did not have Mr. Shefferman's name as payee?

Now, do you understand my question? A. I think I do, sir.

Q. Do you recall whether or not that subject was discussed and did Mr. Brewster say that, in effect, at that conference? A. I have heard Mr. Brewster so state or testify at some time, but I do not have a clear recollection that that occurred on the 15th of December, 1956.

Q. Therefore, it might have occurred on that day? A. It might have.

Q. You are certainly not denying that it did? A. No, it could have happened, sir. I just don't recollect it.

Q. Do you recall further on that subject that Mr. Kennedy stated

565 that he had information that Mr. Shefferman had been payee and had cashed several checks, at least two, totalling a number of thousands of dollars, which checks had been made out on behalf of the Western Conference by Mr. Beck and by Mr. Brewster? A. Again I say that I don't recollect that that occurred on the 15th of December.

Q. You are not prepared to deny that it did, however? A. No, I can't, for this reason: I have heard Mr. Brewster so state.

Now bear this in mind, that I appeared with him before Internal Revenue agents, when he was called to testify concerning Mr. Beck's income tax returns. Now, that was asked either at that time, or Mr. Kennedy could have asked it. I do not have a recollection of it except to say that he has given such testimony at some time.

Q. Do you recall whether or not Mr. Kennedy stated to Mr. Brewster, on this same occasion, that Mr. Kennedy had information that Mr. Shefferman, who was connected with wholesale and retail outlets of goods, that Mr. Shefferman had made very extensive purchases for the Becks and others of the teamsters' union, and that Mr. Shefferman had been repaid for those purchases with union funds, and that that was the information that Mr. Kennedy had? A. I don't recall

566 Mr. Kennedy saying anything like that, sir.

Q. Is your recollection sufficiently clear that you are prepared to deny that Mr. Kennedy said it on that occasion? A. Well, I can't do that either. I do recollect, though, that Mr. Brewster said that he himself -- he was asked whether he had purchased anything from, or through Mr. Shefferman, and he said "On just one occasion." He says "I got a bill for it, and I sent the check right back as soon as I got the bill."

Q. Well, was -- A. That could have happened that day.

Q. Do you think that did happen that day? A. It could have.

Q. Well, are you speaking of what you had said that Mr. Brewster had sent the money immediately to Mr. Shefferman, or are you speaking of what I asked you? A. I am speaking of what Mr. Brewster's reply was to the question "Have you ever purchased any merchandise through

Mr. Shefferman?" and that was the answer that Mr. Brewster gave. Now, whether that happened on December the 15th or some other time, I frankly cannot say, for the reasons I have stated. I just testified about that, well, at least twice under oath, and he has told me about it other times, so you can readily see why I can't recall whether it
567 happened on December the 15th.

Q. I understand.

Well, whenever it did occur did that statement of Mr. Brewster's take place, or was it given in connection with Mr. Kennedy's stating that there had been thousands of dollars worth of purchases paid for by the union? A. I don't think that statement was made that morning --

Q. I am sorry. I am asking you whether the two statements, one by Mr. Kennedy that he had information that thousands of dollars worth of purchases had been made on behalf of the Becks, and possibly others, paid for by the union -- whether that statement was made on the same occasion when Mr. Brewster said "Well, not so far as I am concerned. One purchase was made for me and I paid for it."

Were those two statements made in the same conference? A. No, sir; I don't believe that occurred. I have never heard that.

As I say, if anything occurred - if anything was said about Shefferman, it was that one thing, "Have you ever bought any merchandise from Shefferman?" and Mr. Brewster gave a very quick response to it and said "Yes, on one occasion." He said "I got billed for it right away, and I sent my personal check back right away."

568 Q. Now, you stated on direct examination that the names of McLaughlin and Maloney were mentioned by Mr. Kennedy? A. Yes, sir.

Q. In this same conference? A. Yes, sir.

Q. Did not Mr. Kennedy state, in connection with the mention of those names, that he had information that there had been union funds made available to them in their operations in Portland? A. No, sir, that was not said, sir.

Q. In what connection did Mr. Kennedy mention the names of McLaughlin and Maloney in connection with the teamsters? A. Well, in

reference to McLaughlin he asked Mr. Brewster whether he was ever in business with him, and had he given him any money, had Mr. McLaughlin ever given Mr. Brewster any money, and with reference to Maloney he asked him if Maloney was an organizer for the teamsters union, whether he had been on the payroll of the teamsters union, and Mr. Brewster said he had no such information about Maloney; he admitted he knew the man, he told when he first met him, and what he knew about him, but he denied that he was ever on the payroll of the teamsters union.

Q. I think perhaps you misunderstood my question.

I believe my question was, did not Mr. Kennedy ask Mr. Brewster
569 whether Maloney and McLaughlin had ever been in the receipt of union funds.

Now, isn't that just what you said concerning Mr. Maloney, that Mr. Kennedy said had he ever been on the payroll? A. Payroll as an employee; that is the way I understood it.

Q. I see. And Mr. Brewster then said he was never an employee? A. That is right.

Q. Did he ever say he was never on the payroll? A. Well, I think Mr. Kennedy used that term "payroll," and Mr. Brewster denied it, and he said that he had not been employed by the teamsters union as an organizer or as an employee.

Q. But whichever, the matter of payment for one reason or another, or no reason at all, the matter of payment to Mr. Maloney by the union was discussed, was it not? A. Well, in the fashion that I have mentioned, it was.

Q. Yes. A. Yes, sir. But there was nothing specific mentioned about it. That all came about later on. I think the matters you have reference to --

Q. And in that conference it was Mr. Kennedy and not Mr. Brewster who brought up McLaughlin and Maloney; is that not true?
570 A. It was Mr. Kennedy who brought their names up, yes, sir.

Q. Mr. Bassett, when was it that you, as Mr. Brewster's attorney, determined to give him the advice that he did not have to answer questions and produce papers to the McClellan Subcommittee because of lack of committee authority? A. Well, I think I have stated that in the presence of Mr. Brewster, when the subpoena was served on him that morning, I stated that in my opinion amounted to an unreasonable search and seizure and it was like the summons subpoena duces tecum that had been recently condemned by the Ninth Circuit. I stated that much at that time, but on December the 15th I didn't know what the authority of the Permanent Subcommittee on Investigations was.

It was after that that I examined the Reorganization Act, I think it is called, of 1946, and I read several Federal Court decisions construing the authority of this identical committee under the authority granted, and I might say, too, later there was a conference of lawyers held in Chicago on January Third. I attended that conference, and that was the subject of discussion, whether this Permanent Subcommittee had authority to investigate the financial affairs, or the affairs of labor unions, and it was the unanimous view of every lawyer there that the committee did not have that authority.

571 I had made up my mind before I got there. I went prepared with a brief containing these decisions, and, on my return, I communicated that to Mr. Brewster. That would be about the -- Oh, about the Fifth of January. I think we met on the Third.

Q. Now, Mr. Bassett, you say that on the 15th when the subpoena was served on Mr. Brewster, that you stated to Mr. Brewster that the subpoena was too broad and violated the Fourth Amendment? A. Yes, sir. Well, I didn't say it directly to him, but he heard what I said to Mr. Kennedy.

Q. I see. A. And I did say that, yes.

Q. Now, after Mr. Kennedy requested to be allowed to look over the records of the Conference, or the Western Conference, on that Saturday morning, he then served the subpoena, did he not? A. Yes, sir

Q. And after you had said it could not be done that day because of the situation? A. Yes, sir.

Q. Now, perhaps I didn't make my next to the last question clear. I merely asked you when it was that you determined to give Mr. Brewster the advice that the material sought in the subpoena, and the questions that were contemplated to be asked, would be beyond the committee
572 authority.

It was after the 15th of December, you have already said.

A. Well, Mr. Hitz, there are two things: First, the validity of the subpoena. That I determined on the spot because I was familiar with that subject matter.

Q. Yes, sir. A. I told Mr. Kennedy what my view of it was at that time.

But on the authority of the committee to make the particular investigation, the kind of investigation that I understood that the committee was making, I did not make up my mind about that until I did what I just told you. I examined the law and went to Chicago, carried a brief there, discussed it with other lawyers, and I found that all the lawyers were in agreement with it. When I came back, I imparted that information to Mr. Brewster on the second point, now, the authority of the committee.

Q. I understood you to say that, Mr. Bassett. A. Yes, sir.

Q. Now, you also said that you went to that conference already having your mind made up that the committee didn't have the power? A. That is right.

Q. Tell me when did you make your mind up to that? A. Some-
573 time during the last week of December, Mr. Hitz, I would say. That required a little research work, you know. I didn't do it all myself; I had some help.

Q. By the way, did you advise Mr. Brewster when you did make up your mind, or did you wait until you had come back from the conference in Chicago? A. I don't recall that now. I think I did tell him, though, that I was going to that conference.

Q. Whenever you did it, either before or after the Chicago conference, did you give Mr. Brewster that advice without knowing the purposes of the committee? A. Well, I have said that the only purpose or the only purposes that I knew about, from what I read in the newspaper, they were attempting to determine whether or not the teamsters union on the Pacific Coast had been infiltrated by criminal elements and hoodlums. Now, that was repeated over and over in the Press by Mr. Kennedy, and also by Senator McClellan.

Now, that's what I thought the committee was doing, investigating the affairs, the internal affairs of labor organizations.

Q. And was it on the strength of those repeated newspaper accounts that you read, that you advised your client that he need not produce the records that were sought under the subpoena, because of lack of committee authority? A. Yes, sir; because I had no other
574 information, and I got no other information until the morning of the 16th of January when we were called in executive session -- or the afternoon, rather.

Q. And when you got the information you did get on the 16th, did you persist in your view that there was lack of committee authority? A. Yes, I did.

Q. Would you be good enough to tell me when it was that you prepared the statement that is contained on page 214 of Government No 6?

Do you have Government 6 there? A. Well, I think this is it, isn't it?

Q. Yes, that is right, sir. A. 214?

Q. When did you prepare that? A. Well, it is on 213, too, is it not, the bottom of page 213?

Q. Well, it is discussed on 213. A. Yes, sir.

It was after I got back from Chicago and just before we left Seattle to come to the hearings that had been scheduled for January 15 I think that was a Monday. I had prepared a longhand draft of it and it wasn't typed until the morning of the 15th, or the afternoon of the 15th, in the offices of the Teamsters Union here in Washington. But I prepared

575 it on the preceding Saturday in longhand. I think I left on Sunday, got here Sunday night, and on Monday I engaged a stenographer and had her type it up for me.

Q. That was the statement that was introduced by Mr. Brewster on your behalf at the executive session on the 16th; isn't that right? A. Yes, sir, and again on the 19th.

Q. And again on the 19th? A. Yes, sir.

Q. Now, at the time this was prepared you based your understanding of the scope of the investigation upon what you had read in the paper on the several times concerning infiltration of racketeers into the union? A. That was still being published in the paper, Mr. Hitz. Even when I got here in Washington --

Q. I merely asked you the question. A. Yes, sir. Rackets That is what they called it, rackets. They called it the "rackets committee," for that matter. That is what the Press was calling it.

Q. Did your advice to Mr. Brewster remain the same, and not change, even after you had been given a copy on the 16th of January of the opening statement of the Chairman, that the matter related to the use and misuse of union funds, and the disclosure or failure to disclose those matters to the Labor Department? A. Yes, sir. It was

576 still our conclusion. We didn't know then exactly what the committee was seeking to investigate.

Q. You still didn't know? A. We were confused; yes. I read the statement and I was surprised. There were some things in it that had never been stated before.

* * * * *

BY MR. HITZ:

Q. Well, now, what was given to you on the 16th by Mr. Kennedy as the opening statement of the Chairman? A. I don't think Mr. Kennedy gave us anything, sir.

Q. You don't? Who did give it to you? A. I don't know. It seems like a clerk in his office was passing these mimeographed statements around.

Q. All right, sir. A. And while Mr. Brewster and I were waiting for a few minutes to go into the hearing that afternoon, we read it, and we went in there and then the Chairman asked us if we had seen it, and we said yes, we had seen it, and he asked Mr. Brewster whether
577 he understood it, and I don't recall exactly what he said, whether he understood it fully or not, I frankly was confused. I was completely surprised.

Q. Well, were you thinking that it might still be what you had been reading in the paper back in Seattle? A. No, I thought -- I thought the Chairman of the Committee had added quite a bit, in view of the challenge that we had made; and, mind you, it was well known from the telegram that I had sent previous to that, that we were going to challenge the jurisdiction, and the committee was well advised by telegram, that somebody intercepted -- it was a telegram that was sent from the International Brotherhood of Teamsters to the Executive Board. Now, that was following the Chicago meeting of these lawyers.

* * * * *

Q. I think my question was, did you still think it was what you read in the paper back in Seattle? A. No, I thought the picture had
578 changed, frankly, but I was still confused. I didn't know exactly what this committee was going to investigate with reference to the clients that I represented.

Q. The mimeographed statement given to you by somebody in the office of the Subcommittee, before the hearing of the 16th, was stated by them to be the purpose of the committee as stated by the Chairman, was it not? A. I don't know that I understand your question, sir.

Q. I will rephrase it.

You were given a mimeographed copy of the Chairman's statement, is that correct, sir? A. Yes, sir.

Q. By someone in the outer office of the subcommittee? A. I believe so, yes, sir.

Q. And that was stated to be the purpose of the hearings, was it not? A. Well, it was said -- we were told that this was the statement that Senator McClellan was making at the beginning of these hearings.

I don't know whether it had a title on it to that effect or whether the person who passed it out to us told us that, but I went through it and I found a lot of new things in it, Mr. Hitz, that I had never heard of.

579 Now, for instance, I had heard -- I had read in the Press about some information the committee had with reference to procurement of textiles and uniforms by the Military Service. I understood that was almost a year before that the committee had investigated that. And I knew, of course, what the Press had been saying. They were investigating rackets in labor organizations, and trying to find out whether hoodlums had taken control of them, and I don't know whether you have read this entire record; these people from Brooklyn, Mr. Hitz, were asked about nothing else except criminal activities, the penetration of hoodlums into the locals of Brooklyn, in New York.

Q. Mr. Bassett, I am merely asking you about the statement given to you that the Chairman had made. There is nothing in there about Brooklyn hoodlums, is there? A. No, no.

Q. I am still talking about that. A. As I say, there were two new things in it that I had never heard before;one, the matter of registration, of reports with the Department of Labor; two, the Forms 990 that tax exempt organizations were required to file with the Treasury Department.

Q. And those bits of information were bits of information upon which you did not base your advice back in early January, is that right?

580 A. No, sir, I didn't know that. Had I known that -- had I known that on the 15th day of December, I would have said to Mr. Kennedy on Monday morning, "We will produce copies of such reports that these organizations have filed." I would have done that.

Q. That is, if you had known what the Chairman had to say about that concerning filing with the Government agency of the Department of Labor? A Or if Mr. Kennedy had told me that day, that they were

investigating the Department of Labor and the Internal Revenue Bureau.

Q. You learned it on the 16th because you were given a printed copy of it, weren't you? A. Yes, sir, and that was the first time, sir.

Q. And you persisted in the refusal, and the advice to refuse, on the 19th, didn't you, sir? A. Yes, sir, I did.

Q. That is all. A. Because this comingled with all of these other things, and I didn't know what part of it affected us, whether that was it or something else.

Q. You mean you were willing to comingle that with the newspaper accounts you had read back in Seattle back in December and before? A. Yes, sir, I thought they were making that investigation as well.

581 MR. HITZ: I am through, your Honor.

* * * * *

REDIRECT EXAMINATION

BY MR. PICKENS:

Q. Mr. Passett, I ask you to look at page two of Government 6, which I believe is part of the statement of Chairman McClellan, and ask you if you would look at the bottom of page one where it says "In the passage of the Taft-Hartley law," and ask you if you will read that statement out loud, that one sentence beginning at the bottom of the page. A. Yes. "In the passage of the Taft-Hartley law in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types of racketeering, including the misuse or misappropriation of union funds by dishonest union officials."

Then it goes on to say:

"The law provides that there shall be a registration of labor organizations and a full and accurate report by such organizations of their revenues and expenditures and of all compensation and allowances over and above $5,000 paid to and received by labor union officials and union employees from dues collected from members or from other union funds."

Q. The Chairman was still using the term "racketeering" in his
582 opening statement, was he not? A. Yes, it appears so.

Q. And did that confirm what you previously thought concerning the purpose of this investigation? A. Yes, sir. I was looking down on page 2 here, beyond what I just read. I don't believe that anything about that was contained in the mimeographed statement of purposes; that is, that part where he states "Today, the subcommittee will hear officials..."

Q. You don't recall that as being in his opening statement?
A. I don't recall that, sir; no, sir.

Q. Is there anything else? A. My recollection is that we read about that that night in the public press.

Q. Is there anything else on page 2 that you don't recall as being in that statement? A. No, sir, I don't recall --

Q. Do you recall the paragraph at the bottom of the page where he says "we have acquired information that clearly indicates that there is labor racketeering in the area of Government procurement.."?
A. Yes, sir, I recall that. But that was in the mimeographed statement.

Q. So that in answer to Mr. Hitz' question, this statement did
583 confirm what you had previously thought was the purpose of the investigation? A. Yes, sir.

The only thing that I don't recall is that part where it states that "the subcommittee will hear officials from the Department of Labor, the National Labor Relations Board, and the Treasury Department."

* * * * *

RECROSS-EXAMINATION

BY MR. HITZ:

Q. Mr. Bassett, you referred to a decision of the Ninth Circuit. I want to be sure that I have in mind the same one that you do.

Is it entitled "Local 174 against the United States of America"?
A. The other way around.

Q. The other way around? A. Yes, sir.

Q. Decided in early 1956? A. Decided November the 8th, 1956

There had been a previous decision in the same case in December,
584 1955, as I recall, and --

Q. I merely asked you the date. Is this going to help us on the date? A. The date?

Q. The date of the appellate court decision; is it going to help us to know about the lower court decision? A. No, I don't think so.

Q. Again, to see if we have the same one in mind -- A. Mr. Pickens, do you have it there? I brought a copy of it out here.

MR. PICKENS: Mr. Hitz, I am having it photostated. I was going to give you a copy later on.

MR. HITZ: Yes, but I want to identify what I have and what you may give me with what he is thinking about.

BY MR. HITZ:

Q. Is that the opinion which had to do with whether or not the Internal Revenue Bureau was entitled to receive the documents of Mr. Brewster in answer to a subpoena? A. It wasn't the documents of Mr. Brewster at all.

Q. I am sorry. Of Mr. Brewster as an officer of the Western Conference? A. No, sir, he wasn't involved in the case at all, as a party, or a party in interest even.

You see, what happened was this: Internal Revenue was investi-
585 gating certain tax returns that Mr. Brewster filed during the period of several years prior thereto; I think it went over a period of ten years; in that connection a demand was made on Local 174, a local union in which Mr. Brewster at one time had been Secretary and at another time he had been President, and they wanted to examine all the records, I mean the Internal Revenue agents -- all the records of that local, in connection with the investigation that they were making of Brewster's tax returns.

I represented the local, the union, in that case, and the subpoena duces tecum, as I have already stated, was in terms very much like the subpoenas that were served on Mr. Brewster on December 15

We attempted to comply --

Q. I am merely asking for the identification of the case. Are we still in that? A. Yes, sir. That is the case. I am trying to identify it, sir.

Q. Yes, sir. A. It was decided on November the 8th, 1956. That was the final decision in that case. As I tried to say to you a little while ago, the Court of Appeals had filed a prior decision in the same case, but a petition for rehearing had been filed and the Court kept it under advisement for nine or ten months, and its final decision didn't come down until November 8, 1956.

586 Then I stipulated to extend the time for filing the petition for rehearing after that.

Q. I think you have identified the case. A. Yes, sir.

* * * * *

EXAMINATION BY THE COURT

BY THE COURT:

Q. Mr. Bassett, I think you testified that the very first time you had ever talked to Mr. Kennedy was in December, 1956, in Seattle.

A. I talked to him first on the telephone.

Q. You talked to him first on the telephone, and later he was in Seattle. A. Yes, sir, that was the first occasion.

Q. And you talked to Mr. Kennedy in the presence of Mr. Brewster, is that correct? A. Yes, sir.

587 Q. And then Mr. Kennedy handed either you or Mr. Brewster two subpoenas, right? A. To Mr. Brewster.

Q. To Mr. Brewster? A. Yes, sir.

Q. Identified on the record as Nos. 3632, I think, and 3633.

A. Yes, sir; that is right.

Q. And you read those subpoenas over? A. That is right.

Q. One of them was addressed to him, Western Conference of Teamsters, Seattle, Washington, and the other as the Joint Council 28?

A. That is right.

Q. He was an officer in both organizations? A. That is correct, sir.

Q. And each subpoena asked for the production of certain records, books, papers, et cetera, not belonging to Mr. Brewster but belonging to the organization of which he was an officer; is that correct? A. That is correct, sir.

Q. And on the strength of reading those subpoenas, it is my understanding that you advised Mr. Brewster, or Mr. Kennedy that you thought that this would constitute an illegal search and seizure under the Fourth Amendment? Correct? A. Yes, sir.

588 Q. Well, isn't it a fact that the Fourth Amendment is a personal privilege and that it only applies to an unlawful search and seizure of papers, of persons' houses, in effect, and wouldn't this be in effect demanding or commanding an officer simply to produce papers not belonging to Mr. Brewster but belonging to the organization? A. Your Honor, I was there representing the organization that retained me; I was paid an annual retainer by both of those organizations. I appeared with Mr. Brewster in his official capacity, not as Mr. Brewster, individually, and he was served with this subpoena in his official capacity, and I was making that statement on behalf of the organizations involved and not on behalf of Mr. Brewster. He had no right to make that.

Q. He had no right to make it? A. No, sir.

Q. Because they were not his papers, were they? A. That is right. I made it on behalf of the organization.

Q. All right. Then I understand that the first time you read this statement which Government counsel has referred to, and which Mr. Pickens has referred to, made by Senator McClellan on January 16, 1957, I believe you said it was on January 16; is that correct? A. Yes,

589 sir, I think that was the same day.

Q. Before the hearing started? A. Yes, sir, just before the hearing started.

Q. Did you attend that hearing in executive session? A. Yes, sir

Q. You sat next to Mr. Brewster? A. Yes, sir.

Q. And advised him? A. Yes, sir.

Q. And you said, I think, that they had some new matters, I think there were some new things in that statement that hadn't been discussed when Mr. Kennedy was present on December 15; correct? A. Yes, sir; that is correct, sir.

Q. And that if you had known some of the things that were in this statement, the new matters, on December 15, you would have complied with the request the very next day; is that right? A. Yes, sir, that is what I said.

Q. Do you recall, is it a fact that Senator McClellan advised you or advised Mr. Brewster that he wanted you to think this matter over and return the next day, and then decide whether or not you would answer these questions? A. Your Honor --

Q. Didn't the Senator say that, in effect? A. He did say that, but
590 what I was talking about --

Q. But would you answer the question were you there when he said that? A. Yes, sir, I was there.

Q. Then why couldn't you supply that information the next day, as suggested by the Senator? A. They were still wanting, your Honor, all of our books and records. They were standing on the subpoena. As a matter of fact, even after my telegram of January the 30th when I said that we would furnish all information and records, I used the word "relevant," and Mr. Kennedy phoned me. He said, "I got your wire but I am wondering what you are claiming here by this word 'relevant.'" He says, "Are you going to quibble about it or are you going to let us see all your records?" I said, "Mr. Kennedy, you are a lawyer and I am a lawyer, and I think we can be reasonable. If I know exactly what you are interested in, I will tell the organizations to produce it, if it is relevant by any stretch of the imagination." He says, "No, we are not going to argue about that." So I said, "All right, Mr. Kennedy, send them in."

They came in and they got everything.

Q. After acting upon your advice your client, Mr. Brewster, had

refused to answer many questions propounded by the Chairman, I think, on January 16 -- A. Yes, sir.

591 Q. There came a time when Mr. Brewster later appeared before a Select Committee; right? A. Yes, sir.

Q. The so-called "Labor Racketeering Committee"? A. I did not appear at that, however, as your Honor knows.

Q. You did not appear.

Now, when did you first learn that a new committee had been set up to investigate labor racketeering? When you read it in the Press? A. Yes, sir, I read it in the Press. It was either on January the 30th or the day before I sent that wire.

Q. And then you sent the wire immediately; correct? A. Yes, sir, right away.

Q. From the time you read the paper to learn that a new committee had been set up, did you attempt to read any of the legislative history or any of the debates on that particular bill, or resolution, that was adopted by the Senate, to determine whether or not that committee had the lawful authority to investigate? A. Oh, I was convinced, your Honor, when I saw that. It was quoted in the Press.

Q. You were convinced it had authority to investigate? A. I was convinced that that committee had broad, sweeping powers, and I wasn't
592 going to trifle with that committee in the least about anything.

Q. But you were convinced equally that the other committee had power? A. Yes, sir, equally as convinced.

Q. But still you had studied the legislation on the other committee? A. Yes, sir, I had.

Q. But you had not had an opportunity to make a legislative history study of the new committee? A. No, but the resolution itself was very convincing and I knew it didn't have very much history except that it happened all in one day, I think, in the Senate.

* * * * *

FURTHER DIRECT EXAMINATION

BY MR. PICKENS:

Q. On December 15 did Mr. Kennedy ever ask you for any labor

forms under Section 9 (f), (g) and (h) of the Act? A. Mr. Pickens, that was not mentioned that day. That I am convinced of. I am very positive about that.

Q. How about the hearings on January 16 and January 19, were you ever asked for any of those labor forms? A. No, sir.

593 Q. Under Section 9(f), (g) and (h)? A. No, sir.

Q. Were they ever mentioned at that hearing while you were there? A. Well, yes, I think certain --

Q. On the 16th, first, I am asking about? A. No, not on the 16th. That was on the 19th. They were mentioned for the first time on the 19th. And I think the committee had photostatic copies of those that had been filed by the organizations that I had represented, and the witnesses were asked to identify them, and so forth.

* * * * *

Wednesday, June 19, 1957.

596 FRANK W. BREWSTER

was called as a witness for and on behalf of the defendant and, having been first duly sworn, was examined and testified as follows;

DIRECT EXAMINATION

BY MR. PICKENS:

Q. Mr. Brewster, would you state your full name and address for the record, please? A. Frank William Brewster, 1901 36th Avenue West, Seattle, Washington.

Q. And are you the defendant in this case, Mr. Brewster?

597 A. Yes, sir.

Q. What is your present occupation, and what positions do you hold? A. I am Chairman of the Western Conference of Teamsters; also President of the present Council of Teamsters, Local 174, - Joint Council of Teamsters

Q. When you say "Joint Council of Teamsters," is that Number 28? A. That is right. The State of Washington.

Q. Are you an officer of the International? A. I am Vice-President, fifth vice-president of the International Brotherhood of Teamsters.

Q. Now, Mr. Kennedy and Mr. Bassett testified about a conference in your office on December 15, 1956. Were you present at that conference? A. Yes, sir.

Q. Do you remember what time of day that was? A. About 8:15, Saturday morning, December 15th.

Q. And who was present? A. Mr. Bellino; Mr. Kennedy; Mr. Bassett; and myself.

Q. Will you tell the Court all that you can remember that Mr. Kennedy said to you at that conference, your conversation with Mr. Kennedy? A. Mr. Kennedy asked me questions about Tom Maloney,
598 how long I had known him, what connections he had with the Teamsters Union relative to being employed, and also about John McLaughlin. He asked me questions about him, if he had ever worked for the Teamsters Union and if I had ever had any dealings with him where there was money that changed hands or been in partnership with him in my business or any business. And most of the conversation that I do not recall verbatim was relative to those two individuals and also a man by the name of Mr. Hy Goldbaum, of Los Angeles.

The questions related to what did those men pay me for certain favors that were done and so forth. They didn't come out and say it but alluded to it, about business connections or dealings with them in certain categories that certainly was foreign to me. I didn't know what they were talking about.

They also asked me about Shefferman. There's not too much conversation about Shefferman other than I signed checks with Shefferman's name on the check. I said to my knowledge, outside of one instance, where the Western Conference was involved, that I signed a personal check when I received an electrical appliance from Chicago by return mail, as soon as I got the bill I paid that with my own check.

The other was a check that was brought to my attention about two or three months prior to that, when my deposition was taken by the --

599 Q. Was this at this conference on December 15th? A. Yes, I believe that that was mentioned. As far as I can remember I have

been asked about this check of Shefferman's so many times, and I think that probably happened at that time.

Q. You mean on December 15th? A. Yes.

Q. At this conference you are testifying about? A. Yes. I was shown the check and I made the statement then, I presume I repeated it, that that name of Shefferman was not on the check when my signature went on the check. There was very little discussion about Shefferman, and then, the conference or the meeting I don't think lasted over thirty to forty minutes, because I had a meeting at nine o'clock, and Mr. Kennedy said, "I don't think you are telling us the truth."

Oh, he also asked me about Jim Elkins, and asked me about any dealings, business dealings where money was transferred with Jim Elkins.

He said, "I don't think that you are telling the truth," and I said, "Well, if you want to take the word of people like Elkins and Maloney and such people in preference to mine, I cannot help it."

Q. Who was Jim Elkins? A. Jim Elkins was the character -- I
600 think they usually referred to him as the "character" -- in Portland, Oregon, that was, well, I suppose he was in charge of vice. That is what he had been at least accused of in every paper that I have read, and every time his name is mentioned he is the person that ran the town of Portland.

Q. Did you know him? A. I never knew him. I met him just once for three to four minutes.

Q. You say you read the newspapers. Do you mean immediately preceding the time that you had this conference with Mr. Kennedy? A. I read a few articles in the newspaper preceding that. I don't think it was very long before it.

Q. Do you remember reading any articles in which a newspaper purported to quote Mr. Kennedy? A. Yes, I do. I remember articles where they were in to investigate corruption and vice with the City officials in Portland, Oregon, and some people connected with the Teamsters Union.

Q. Who was Maloney, that you mentioned? A. Maloney is an individual that came to Seattle. He was a member of Local 85 of the Teamsters' Union in San Francisco, had a card from that local union, being a member. He came there, I believe, as a -- if I remember -- as a fight manager.

601 Q. Is he connected with these stories of vice in Portland? A. Yes sir, he was.

Q. Who was McLaughlin? A. McLaughlin owned a card room, restaurant, amusement establishment, on First Avenue and Marion Street in the City of Seattle.

Q. Was he connected with this investigation? A. He was connected with the investigation also.

Q. Now who was Hy Goldbaum? A. Hy Goldbaum is a person that works out of Las Vegas, and he has been connected with gambling interests in Vegas, I believe, for some period of time.

Q. Did you get the impression from Mr. Kennedy's statements that he was trying to connect you with this vice situation in Portland? A. I certainly did.

Q. Did he ever ask you for any of your records at that time? A. No sir, other than while he was talking. He did not talk about any records of the union at all, and with those, I believe the remarks soon after, a few minutes, I don't know the rotation of how these things happened, but in a very short period of time he served the subpena on me that was read in the record yesterday that I heard here.

602 Q. Did he tell you what the purpose of this inquiry or this investigation was? A. No sir, he didn't.

Q. Did he ask you any questions about these forms that are filed by labor unions under Sections 9(f) and (g) and (h) of the Taft-Hartley Act? A. Not one thing.

Q. Did he ask you about any of these forms that are filed with the Bureau of Internal Revenue by Tax-Exempt organizations such as labor unions? A. No sir, he did not.

Q. I hand you a copy of Government's Exhibit 6 and ask you to look at Page 38.

Before I ask you any questions about that, did he ask you what organizations you were connected with, labor organizations, or what unions? A. Yes sir, I believe he did, and I think at that time he asked me about the functions of the Western Conference of Teamsters. And to my recollection that is the only organization he asked me about, what the make-up of it was, what the authority was that was vested in the Western Conference of Teamsters, and there was a very brief discussion about that.

Q. Did he ask you anything about the respective positions that
603 you held in other labor unions? A. I do not recall anything else other than 174 and Joint Council 28. He might have asked me if I was vice-president of the International.

Q. Did he ask you anything about the initiation fees of any of these labor unions? A. No.

Q. Or union dues? A. No, nothing relative to that.

Q. Or capital assets? A. No, sir.

Q. I ask you to look at page 38 of Government's Exhibit 6 and subpena number 3632 calling for the records of the Western Conference, and ask you if that is a copy of the subpena he served on you, or a reprint of it? A. Yes, sir, I believe it is.

Q. And the one below that, 3633, in regard to Joint Council 28; does that appear to be a copy or reprint of that subpena? A. Yes, sir, I believe it is.

Q. This subpena directs you to be in Washington on December 27th. Did you appear on December 27th? A. No, sir, I did not.

Q. Did you have some further conferences, or was this subpena extended so that you were not required to appear on December 27th?
604 A. Well, we were attempting to get a postponement so that we would have time and so forth, and I think that we got that about, around the 20th. I am not positive about the date. But we did get a postponement.

Q. I ask you to look at Government's Exhibit 6, Page 40, and at the bottom of the page, and see if that refreshes your recollection, that you were informed by the Chairman? A. Yes sir, that is the one.

Q. Now, did you subsequently appear before the Permanent Subcommittee in Washington in January, sometime? A. Yes, sir.

Q. Do you recall when it was? A. I believe it was January 16th.

Q. Now before you arrived in Washington for your appearances on that day, were you notified or did you know the purpose of the hearing for which you were called to testify? A. I did not.

Q. Did you appear and refuse to testify on January 16th? A. I appeared and refused to testify on the 16th.

Q. Did you turn over the records of the Western Conference at that time? A. I did not.

605 Q. Or Joint Council 28? A. No sir, I did not.

Q. When you appeared on the 16th of January, were you shown a statement by the Chairman, a mimeographed statement? A. There was a statement that was passed out while we were waiting to go before the committee. I received one, and Mr. Bassett received one, and I remember reading it at the time.

Q. After you read the statement were you then aware of the purpose of the hearing? A. No, I wasn't.

Q. Did you hear or know that Secretary of Labor Mitchell had testified before you did in executive session, before you testified? A. I heard that, or it was drawn to my attention by an article that I read in the newspaper.

Q. Prior, or after the time you testified on the 16th? A. I am not too sure, but I thought it was -- it might have been just before or a day after. I might be mixed up on those dates. There has been so many things happened since then that I get dates and events mixed up.

Q. Then after you testified on the 16th, or at the time you testified
606 on the 16th were you allowed to read a statement in the record at that time? A. Yes, sir.

Q. Then subsequent to the 16th did you later appear before the committee at open session, did you later appear before the committee in open session? A. I did

Q. And did you produce the records of the Western Conference and Joint Council 28 at that time? A. No sir, I did not.

Q. Were you allowed to read a statement as to your reasons for not producing, and not testifying? A. Yes, sir, I was.

Q. I wonder if you would look at Page 213 of Government Exhibit 6, at the bottom of the page? I wonder if you would read the statement that you read:

A (reading): "On Saturday, December 15, 1956, there was served on me a subpena addressed to Frank W. Brewster, Western Conference of Teamsters, Seattle, Washington. I am the Frank W. Brewster named in said subpena. My address is 553 John Street, Seattle, Washington. I am chairman of the Western Conference of Teamsters, which is a voluntary, unincorporated association chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America,
607 affiliated with the A. F. of L. and CIO. The Western Conference of Teamsters is composed of 258 local unions and 10 joint councils, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, located in the 11 Western States, the Territories of Hawaii and Alaska, and the province of British Columbia, Canada. Its chief objectives are to aid and assist its affiliated local unions and joint councils in furthering the organization of working men and women in all branches of jurisdiction of the teamsters union; to carry on a program of education for the benefit of the officers and members of its affiliated local unions and joint councils, and to promote sound public relations.

"The above-mentioned subpena commanded me to produce before you the books and records of the Western Conference of Teamsters for the period from January 1, 1951 to December 31

1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, check stubs, correspondence files, memoranda, and minutes of meetings.

"I desire to state to you my reasons for not producing any financial records or other papers or documents in response to this subpena. My reasons are: First, I am advised by counsel
608 that in attempting to investigate the Western Conference of Teamsters and to examine the financial records, correspondence, minutes of meetings and other documents described in said subpena, the subcommittee is proceeding in excess of its lawful authority.

"Second, I am further advised by counsel that the language of the subpena is so broad, sweeping, and lacking in particularity as to constitute an unreasonable search and seizure under the fourth amendment of the Constitution of the United States."

This is signed by myself.

Q. Had you previously supplied the committee 24 hours before with a copy of this statement? A. Yes, sir, I had.

Q. Had you supplied them with a copy of it prior to your testimony on January 16th? A. Yes, sir.

Q. You had a similar statement, or did you have a similar statement with regard to Joint Council 28? A. I did. I think almost the exact statement with the difference in wording of Joint Council instead of Western Conference.

Q. Would you look at the bottom of Page number 214 and see if you can identify that as a copy of the statement you had in connection
609 with Joint Council 28? A. Yes sir, that is.

Q. Now, you state as your reasons, you contend that the subpena was too broad and sweeping and lacking in particularity, and that the committee was exceeding its lawful authority. Do you or did you rely on anyone's advice in that connection? A. Yes, I relied on the advice of counsel.

Q. Who was your counsel? A. Samuel B. Bassett.

Q. Is your answer the same for both the meeting of January 16th and January 19th? A. Yes sir, it is.

610 PROFFER OF PROOF

MR. PICKENS: We offer to prove, your Honor, that Mr. Brewster informed the Committee that he would not testify until a legally competent committee were set up. That on or about January 30, 1957, he was informed that the Senate Resolution was adopted setting up a new Select Committee with power to investigate the field of labor racketeering including all improper activities in the field of labor or management relations; that on that date he sent a telegram to Senator McClellan, the Chairman of the Committee, a joint telegram signed by Mr. Brewster and Nugent LaPoma, Secretary-Treasurer of Local 174, in which he offered to then appear before this new committee to produce these books and records and to testify as required.

I will offer to prove that on or about February 17, 1957, he received
611 a telegram from the Chairman of the Committee, Mr. McClellan, asking him to come before the Committee on or about February 28, 1957; that this request referred to the fact that he was still under the cognizance of the former subpenas. No new subpena was served on Mr. Brewster; that Mr. Brewster appeared on February 28 and reported to either Senator McClellan or counsel Kennedy, of the then Select Committee; that they informed him that they were not ready for his testimony on that day; that he kept in daily contact with them and that he appeared on March 15, 1957, and testified fully on March 15, 19, 20, 21 and 22, and that he answered all of the questions propounded to him by the counsel's committee and all the members of the committee; that he turned over the records of the Western Conference to the committee investigators at their request in Seattle, Washington. They were allowed to go through all of the records of the Western Conference, Joint Council 28, and his personal records, and to select and photostat such of those records as they desired. At the conclusion of the hearings before the Select

Committee, that two of its members informed Mr Brewster they congratulated him on his testimony and the fact that he testified fully and fairly before the committee; that these were Senators Goldwater and Senator Mundt; that he answered questions touching on every subject concerning which he was interrogated on January 16 and 19, 1957.

612 We offer to prove these facts, your Honor, going to the subject of purging and mitigating and extenuating circumstances.

THE COURT: Do you have an objection?

MR. HITZ: We do object.

THE COURT: Will you state your grounds of objection?

MR. HITZ: We object to this testimony because it relates to a defense that is not available to the defendant in this type of a case, because purge has nothing to do with the contempt which had already been finalized. The purge later was before another subcommittee. Even that subcommittee didn't accept it. But a purge would have had to be before the same subcommittee and the same subcommittee would have had to accept or would have had to condone or withdraw the citation of contempt that was voted on March 19, - I am sorry, February 19, 1957, a full thirty days before Mr. Brewster's alleged purge.

THE COURT: I will sustain the objection on that for the same reason I gave yesterday.

MR. PICKENS: In that connection, your Honor, I would like to offer in evidence the hearings before the Select Committee on Improper Activities in the labor management field. There are five parts. They start on February 26, and the fifth part ends on March 27th.

613 THE COURT: Give me the dates again, please?

MR. PICKENS: Part one includes the testimony on February 26, 27, 28 and March 1st. I have lost track of my last exhibit number. What was it?

THE DEPUTY CLERK: Number 6 was last.

MR. PICKENS: I offer that as Defendant's Exhibit 7-A.

Part 2 was the testimony on March 5, 6, 7 and 8, 1957. I offer that as Defendant's Exhibit 7-B.

Part 3 is the testimony on March 12, 13, 14 and 15. I offer that as Defendant's Exhibit 7-C.

Part 4, which contains March 19, 20, 21 and 22, I offer that as Defendant's Exhibit 7-D.

Part 5 contains the testimony of March 26 and 27, 1957. I will offer that as Defendant's Exhibit 7-E.

I herewith hand counsel for the Government copies of these hearings.

MR. HITZ: Sir, we object to them on the same ground.

THE COURT: The same ground, and the same ruling as before, --

MR. PICKENS: They will be filed with the exhibits in this case, your Honor?

THE COURT: - for the same reason.

MR. PICKENS: Your Honor, I wish to make another offer of proof, and that is -- I don't wish to labor your Honor's ruling.

614

(Defendant's Exhibits Nos. 7-A, 7-B, 7-C, 7-D, and 7-E, were marked for identification and admitted in evidence.)

MR. PICKENS: May I proceed.

THE COURT: Yes.

PROFFER OF PROOF

MR. PICKENS: I offer to prove by reading a series of 40-some questions and answers that Mr. Brewster testified fully and fairly on every subject concerning which questions were propounded to him on June 16th and June 19th, 1956.

MR. HITZ: It was January, Mr. Pickens.

MR. PICKENS: January, 1956. I am sorry.

Again when he appeared before the Select Committee on March 15, 19, 20, 21 and 22

I offer to prove, in other words, that he answered all of the questions in the hearing before the Select Committee that were propounded to him on January 16 and 19

THE COURT: And those questions are contained in your Defendant's Exhibit 7-A through 7-E?

MR. PICKENS: That is correct.

THE COURT: The volumes which you submitted to Mr. Hitz on which I sustained the Government's objection?

MR. PICKENS: That is correct, your Honor.

THE COURT: The same ruling.

MR. PICKENS: The same ruling?

615 * * * * *

CROSS-EXAMINATION

BY MR. HITZ:

Q. How long have you been a paid official of the Teamsters Labor organizations, Mr. Brewster? A. Since 1921.

Q. In what capacity did you first become a paid official? A. As a Business Agent for Local 174, City of Seattle.

Q. Is that embraced entirely within the City of Seattle and its environs? A. Yes, sir.

Q. Has it always been? A. Yes, sir.

Q. A Seattle local? A. Yes, sir.

Q. When did you first hold a position in a labor organization of the Teamsters higher than local level? A. I believe it was in 1929 that I became President or Secretary, rather, of the Joint Council 28.

Q What year? A. I believe it was '29

* * * * *

630 BY MR. HITZ:

Q. Mr. Brewster, you have stated that Mr. Kennedy asked you nothing about any union registration forms. A. That is true. He did not.

Q. Mr. Brewster, did the Joint Council number 28 have any copies of forms that they had filed with the Labor Department, at the time of the conference with Mr. Kennedy? A. At that time I would not be able to give you the direct information. Can I state briefly about how my operation runs?

Q. Well, I wonder if I could ask you a question, and then you may do that if you still have it in mind to do so. A. Yes, sir.

Q. Did the Joint Council 28 ever file any registration forms with the Labor Department? A. I do not believe that we did. I am not too positive. But on the forms my memory is very vague on it, and I would like to explain why.

Q. Yes, sir. Would you do that? A. I have so much work to do other than probably the clerical part of making out forms and so forth,
631 and I could have been in my office and the bookkeeper come and asked me to sign certain forms. I remember many, many times while I was having conferences that I had to sign those forms, checks, et cetera, because I was leaving town, and I might have signed a form and not paid any attention to it and took the bookkeeper's word for the contents.

Q. Were there copies of such forms kept by the Joint Council 28? A. It must have been kept by the bookkeeper if there was any.

Q. In what office did this conference with Mr. Kennedy take place on December 15th, the Joint Council 28 office or the Western Conference office? A. The Western Conference office.

Q. Where was the Joint Council 28 office? A. The Joint Council 28 hasn't an office as an office, because they have not any paid officials.

Q. Where were the records of Joint Council 28 kept? A. The records of 28 were kept in 552 Denny.

Q. And where is that with respect to the Western Conference office? A. One block south. It is all in the same piece of property. The Western Conference is on John Street, and the Joint Council and the other local unions are on Denny Street.

632 Q. Did you say you were an officer or are an officer and were in December an officer of Local No. 174? A. Yes, sir.

Q. What position? A. President. What year was that again, please?

Q. December of '56. A. Yes, sir. I was president.

Q Had they filed a registration form with the Labor Department?

A. Yes, I believe they did.

Q. Were copies kept? A. Yes, sir.

Q. Where were their offices? A. Their office were joining, where the books were kept for the Joint Council. You see, we have a general bookkeeping office for approximately 20 local unions, and 174, which is the largest union in the City of Seattle, has its own separate office. So they were kept in the offices of Local 174, which you might say is across the hall from where the records of the Joint Council 28 were.

Q. Where were the records of the Western Conference kept? A. They were kept in the Western Conference building.

Q. Now, what records did Mr. Kennedy ask you to inspect on that
633 Saturday? A. All of the records of the Western Conference and Joint Council 28, I believe.

Q. And the local too? A. No, I don't think that he asked the local. I think that that subpena was served on Nugent LaPoma. After I had the interview I think that was served on 174, and I don't think I had a service on 174.

But it may be --

Q. Well, I am not speaking of a subpena. I am asking whether Mr. Kennedy's request embraced 174? A. No sir, I don't believe so. I think that is a separate transaction with LaPoma.

* * * * *

BY MR. HITZ:

Q. Now, do you understand this subpena directed to Joint Council 28 to include or not to include the registration form copies that had been
634 filed by the Council?

* * * * *

THE WITNESS: I couldn't tell whether that included that or not.

BY MR. HITZ:

Q. Mr. Brewster, let's get now to the morning of the 16th of
635 January when you came down to Washington to testify. You say that somebody outside of the hearing room furnished to you and to Mr. Passett, each, a copy of the mimeographed statement of the chairman?

A. Yes, sir.

Q. So that between you, you got two copies? A. I believe we did.

Q. Do you remember who it was who furnished you with yours? A. No, but I think it was an employee. We were close to their office that they work in. We were down in that corner waiting to be assigned to some place, and I believe it was an employee of their staff. I don't remember Mr. Kennedy giving it to me. In fact, I am pretty sure it wasn't. I don't remember seeing Mr. Kennedy that morning.

Q. Was it a man or woman; do you remember? A. No, sir, I can't.

Q. What did you do with yours? A. Well, I kept it and read it and I don't know what happened to it. I have not got it.

* * * * *

637 Q. Did you read your copy carefully, or just hurriedly? A. Oh no, I read my copy carefully.

Q. When did you read it? A. I read it when I got it and then I know I took it to the room and I read it again.

Q. That was between the 16th and 19th, of course? A. No, it was before the 16th or about the time I went to trial, I think.

Q. You didn't receive it until the 16th? A. Was it the 16th?

Q. Well, you first appeared on the 16th and gave testimony in executive session. A. Well, then, it was -- we went in executive session, didn't we?

Q. Your first appearance was on the 16th in executive session. A. In executive session, that is right.

638 Q. And on the 19th you came back and testified in public session? A. That is right; yes.

Q. And is it your testimony that you received the mimeographed copy of the chairman's statement before your first testimony? A. I believe I did.

* * * * *

THE COURT: While we are waiting, I might suggest this to counsel in case you want to make some plans for this afternoon.

There is a meeting of the judges being held this afternoon at three o'clock, so we will adjourn about five minutes of three o'clock.

MR. PICKENS: Could I ask your Honor this: -- of course we would like to, Mr. Brewster is my last witness, and I do have quite a few documents, and I have a statement of the Assistant Commissioner of Internal Revenue. If it is agreeable with Mr. Hitz, I will read it in. If it is not, we will have to call him.

639 But of course we would like time to file a brief. I would think from our standpoint it would be better if we had an oral argument.

THE COURT: Well, I would rather hear your oral argument, frankly. I would like to finish this case, and I will give you all of the time you need to argue the case and give the Government time to reply, and I will make my ruling.

So we will go as far as we can after Mr. Brewster finishes and put in whatever other evidence you want to by way of documents, and proceed to argue it this afternoon, and take up that much time, anyway.

* * * * *

640 BY MR. HITZ:

Q. Mr. Brewster, I think you have said that you have not, since several days after the 16th of January, when you first testified in executive, seen your copy or anybody's copy of the statement that was given to you before your testimony? A. That is my recollection.

Q. Which was the chairman's opening statement? A. Well,

Q. Which they said was the Chairman's opening statement? That is what they said, yes sir.

* * * * *

641 Q. Now Mr. Pickens asked you questions about, further questions about, the conference with Mr. Kennedy in Seattle, and I believe you testified that Mr. Kennedy did not tell you then what the purpose of the committee was in asking you these questions and in asking for an inspection of your records. Do I understand that correctly? A. Yes sir, that is right.

Q. And is it your testimony on direct examination that you didn't know at the time you came here to testify on the 16th, you still didn't know the purpose of the committee? A. I wasn't sure, no sir.

Q. I think you testified that even after reading the mimeographed statement that was handed to you before you testified, you still didn't know? A. I wasn't sure, no sir.

Q. You weren't sure? A. No, sir.

Q. So I would like to ask you, Mr. Brewster, what was the basis of the opinion that you had, you adopted from your lawyer, that the in-
642 quiry of the subcommittee was beyond the lawful authority of the committee? A. Well, --

MR. PICKENS: Your Honor, I don't think he has the privilege other than saying he was advised by his counsel, to go into the conversations that he had with his lawyer.

THE COURT: Well, I have a different idea about that, Mr. Pickens. I think he can.

You may proceed.

BY MR. HITZ:

Q. Do you understand my question, Mr. Brewster? A. No. Would you repeat it, please, sir?

Q. Yes, sir. Having in mind your testimony which you have just now verified that at no time, including the time of your first appearance before the subcommittee, were you sure of the purposes of the committee in conducting this investigation; having that in mind, what is the basis then for your stating in your written statement, signed by you and read by you, that the investigation being conducted by the committee in your opinion was beyond its lawful authority?

MR. PICKENS: Your Honor, --

THE COURT: Just a minute. Are you making an objection?

MR. PICKENS. I am objecting because he has already testified he was advised by counsel. I think that is sufficient.

643 THE COURT: Well, as a matter of fact, I was going to ask Mr. Brewster a few questions along those lines. I will permit the witness to answer.

BY MR. HITZ:

Q. Is my question clear to you and do you understand it, Mr Brewster? A. I only understand this part of it. At all times I took the advice of my counsel on everything that I did.

Q. I see. A. It was the counsel's advice that I took.

Q. Including this part of your statement? A. I presume it would be.

Q. So that this was not your independent judgment of the scope of the investigation being conducted and the scope of the lawful powers of the committee? A. I believe my attorney was right and I believe the same as he did, because I think he showed me that he was right. I was in his hands. That was my notion; I know it was my position. I didn't disagree with him, no sir.

Q. I see. And was that the same situation several days later on the 19th when you again appeared before the subcommittee? A. I believe that is right.

Q. And is it your testimony that on the 19th you still were not
644 aware of the purpose of the subcommittee's investigation? A. I think I was more confused on that day than I was on the 16th.

Q. I see. A. Because Elkins and all of these people that testified, and I know that they were bringing everybody in from there, and I believe that that vice in Oregon was one of or at least their main objective.

Q. Well, Mr. Elkins didn't testify between the 16th and the 19th, Mr. Brewster, did he? A. No, but the papers had him that he was going to come and testify, and all the other people had subpenas served on them and so forth. I heard about those. So I felt from those subpenas and the tenor of the nature of what they were going to be was just the nature that I took out of the meeting that I had in my office.

* * * * *

EXAMINATION BY THE COURT

BY THE COURT:

Q. Now, as I understand it, the first time you saw Mr. Kennedy

645 was about December 15th in Seattle? A. That is true.

Q. And you had certain conversation or a conference which you have already related to counsel? A. Yes, sir.

Q. Then he handed you two subpenas, one directing you as the President of the Western Conference of Teamsters to produce certain records, from January 1, 1951 to December 31, 1955, records of the Teamsters of the Western Conference? A. That is true.

Q. Then he handed you another subpena because apparently you were President at that time, President of the Joint Council Number 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Seattle, Washington, calling for the production of practically the same things that he asked for in the other subpenas, except the records belonging to Local 28? A. Yes.

Q. Now he had those two subpenas and your lawyer was there, Mr. Bassett, right? A. Yes.

Q. He reviewed the subpena and gave you his opinion, I think, or told Mr. Kennedy I think he said, that he felt this was a violation of the fourth amendment? A. I think that was later, after the conference. I think it was a couple of hours later.

646 Q. Then there came a time, did there not -- I want you to state the fact, I don't know what the facts are -- sometime between December 15, 1956 and the time when you and Mr. Bassett came to Washington around January 15th, Mr. Bassett was studying the legal angle of this matter to determine whether or not in his mind he should advise you whether or not you should answer any questions propounded by this committee or refuse to answer questions; correct? A. I believe that is right.

Q. Did you have any conferences with Mr. Bassett between December 15th, 1956 and January 15, of '57, regarding this legal issue? A. Oh, undoubtedly we did. I don't really recall them. But I am certain that we discussed it.

Q. Did there come a time before you came to Washington, or while you were in Washington, when Mr. Bassett advised you -- how if

he did advise you -- that in his opinion he thought he was right legally, that is, that the committee did not have the authority to demand of you the production of these records called for in these two subpenas, or did not have the authority to question you in connection with this matter?

There came a time when he advised you of that fact, did he not? A. That is true.

647 Q. Did he also advise you of this fact? Did he advise you in effect that, however, if you refused to answer questions propounded by the committee, and if it were proved that he was wrong in his thinking that you would have to suffer the consequences? Did he say anything like that to you? A. I believe he did. But I knew that without him telling me. I am the one that is on trial, your Honor.

Q. I appreciate your frankness, Mr. Brewster.

All right. I think that is all.

* * * * *

677 THE COURT: Yes. I would like to say this, frankly, to both counsel on both sides. Counsel on both sides have cooperated with the Court, and I have allowed wide latitude on both sides. I would like to finish this case tomorrow.

Now it seems to me that 45 minutes on each side should be ample time to argue this case, unless you think otherwise.

Do you think you need more time than that? I will consider it.

MR. PICKENS: No, I think 45 minutes would be adequate. Can we file a brief?

THE COURT: I may make my ruling tomorrow. I want to listen to the arguments first.

MR. PICKENS: Well, in view of the short time we have had to
678 prepare, your Honor, we would certainly like a week or ten days to file a brief.

THE COURT: Well, the Court is not going to be in session in July. I won't be here in July. I can't make any ruling on this in July.

I am going to dispose of this case tomorrow. I will listen to arguments and I am going to dispose of it tomorrow. That is my present

thinking anyhow

* * * * *

679 MR. HITZ: In view of the fact your Honor has indicated you may decide this case tomorrow, after arguments, it might be helpful to the Court if I should cite to you three cases in this jurisdiction that I will cite in argument tomorrow, and you may care to glance at them between now and then.

THE COURT: All right.

MR. HITZ: Would that be a matter of convenience to the Court?

THE COURT: Yes. I wish you would.

* * * * *

680 THE COURT: Do you have any cases you would like to cite to the Court?

MR. HITZ: I have two more, your Honor.

THE COURT: I will take those and then I will ask counsel for the other side.

* * * * *

681 MR. PICKENS: Your Honor, at the time that subpoenas were issued for the Secretary of Labor, the Honorable James Paul Mitchell, and Judge Leedom, the Chairman of the National Labor Relations Board, a subpoena was issued for the Honorable Justin F. Winkle, Assistant Commissioner of Internal Revenue.

Mr. Hitz and I have made a similar arrangement that we would
682 stipulate as to the testimony that Mr. Winkle would give if he appeared as a witness for the defendant. I have here a memorandum, and, based on that, I would like to read a stipulation into the record.

THE COURT: Very well.

MR. PICKENS: That it is hereby stipulated between counsel for the defendant and counsel for the Government that if Justin F. Winkle, Assistant Commissioner of Internal Revenue, were called as a witness on behalf of the defendant he would testify in substance as follows:

* * * * *

THE COURT: All right, Defendant's 15 then.

(Defendant's Exhibit No. 15 was marked for identification.)

MR. PICKENS: He would testify in substance as follows:

"At the request of Mr. Robert Kennedy, Counsel to the Subcommittee, Mr. Harold T. Swartz, Director of the Tax Rulings Division of the Internal Revenue Service, and I appeared at Mr. Kennedy's office at 9:30 a.m., January 11, 1957. A few minutes after we arrived, Mr. Adlerman, who was introduced to us as a member of the Subcommittee Staff, also came into Mr. Kennedy's office. To the best of my recollection, the following
683 is the substance of the conversation which ensued during that meeting although the items are not all necessarily set down in the order in which they were discussed:

"(1) The conversation opened with some general questions by Mr. Kennedy as to whether labor unions were exempt from income tax, whether they were required to file returns of any kind, and to what extent we checked those returns. I replied that labor unions were exempt from income tax under section 501 (c) (5) of the Internal Revenue Code; that they were required to file annual information returns; and that the extent to which these returns were checked was very limited due to the Service's manpower situation.

"(2) There was also some discussion of the penalties which applied when an exempt organization filed a false return.

"(3) Mr. Kennedy also asked whether we ever had any occasion to challenge the exempt status of an organization because it refused to turn over its books and records to us. My reply, which was confirmed by Mr. Swartz, was that we did not recall that this had ever happened.

"Mr. Kennedy asked whether the Service believed that it had authority to revoke an exemption on these grounds. My reply to this was that I personally believed it had.

684 "Mr. Kennedy asked why, if this was the Service's position, we had not done so, and he referred briefly to the decision of the Ninth Circuit in the case involving a Local of the Teamsters Union on the West Coast. I told Mr. Kennedy that I could not answer that question inasmuch as matters pertaining to litigation were not within my province but within the province of the Chief Counsel of the Service.

"(4) Mr. Kennedy also wished to know whether the Service would have any interest in information which might indicate that an official of a labor union had taken monies from the welfare fund of the union. I told Mr. Kennedy that the Service would be interested in receiving any information which might possibly bear upon the question whether the union had filed a correct information return, whether it was properly exempt, or whether any of its officials had reported all the income which they were required to under the revenue laws.

"(5) There was also a brief discussion of why the Subcommittee could not secure access to applications filed by labor unions under the authority which it was given by Executive Order to inspect information returns.

685 "(6) During the course of the discussion, and at the request of Mr. Kennedy, I left with him copies of the types of application and return forms which labor unions are required to file.

"The foregoing represents my best recollection of the substance of the meeting of January 11. It was a relatively short meeting and there was no discussion of any specific tax cases. The only court decision that was mentioned was the decision of the Ninth Circuit involving Local No. 174.

"At 2:00 p.m. on January 15, 1957, Mr. John Potts Barnes then Chief Counsel of the Internal Revenue Service, Mr. William M. Coard, Chief of the Intelligence Investigations Branch of the Intelligence Division of the Service, and I went to the office of Senator John L. McClellan, pursuant to a telephone request made

by Mr. Kennedy that the Senator would like to see Mr Barnes and myself.

"When we arrived, we were greeted by Senator McClellan and Mr. Adlerman. Mr. Kennedy came into the Senator's office a few minutes after the discussion began.

"The following represents my best recollection of the conversation which ensued on this occasion:

"(1) Senator McClellan, after thanking us for coming up,
686 told us how the Permanent Subcommittee on Investigations had first become interested in labor unions, stating that its interest had stemmed from some inquiring it had made into certain Naval procurement practices. He also stated that the Subcommittee was about to open hearings to determine whether there is a need for any changes in the laws relating to labor unions and welfare funds since information which had come to the attention of the Sub committee indicated some irregularities and abuses in these areas.

"Senator McClellan also stated that he had reason to believe that there might be some challenge made to the jurisdiction of the Subcommittee before the public hearings got under way; that he intended to ask representatives of Internal Revenue Service, as well as representatives of other Governmental agencies having responsibilities in the areas of labor unions and welfare funds to appear and answer questions respecting the adequacy of existing laws and the procedures and practices being followed in enforcing them.

"(2) With the exception of one or two additional items that were discussed, which are set forth in the paragraphs which follow, the conversation which then ensued was pretty much a repetition of the preliminary conversation had with Mr. Kennedy and Mr. Adlerman on January 11th. The exceptions, as I recall
687 them, were as follows:

"(3) There was some discussion as to whether, in the event the Service decided to revoke the exemption of a labor

union, it would tax the dues paid into the union as income to it. Chief Counsel Barnes expressed some doubt on this score but Mr. Adlerman pointed out that there was a line on the information return form which suggested that dues would constitute income.

"(4) There was also some discussion as to whether the Service could revoke the exempt status of a labor union on the ground that a part of its income was inuring to the benefit of an official.

"(5) There was some discussion as to whether the Service believed that legislation might be needed to prevent some of the abuses and irregularities that information before the Subcommittee indicated existed. Mr. Barnes replied to this question in substantially the same way he replied to a similar question put to him by the Chairman during the Hearings held on January 16 (see page 35 of the Hearings)."

That would be Government's Exhibit 6, your Honor.

"In this connection, reference was also made to the fact that the Treasury Department had already committed itself to the Moss Subcommittee to sponsor legislation making applications
688 filed by exempt organizations available for public inspection.

"(6) One of the final questions asked by Senator McClellan was whether, in view of the fact that the Service did not have sufficient manpower to examine returns of all labor unions and welfare funds, it would improve the Service's operations and overall efficiency if information was made available to it through hearings which the Subcommittee might conduct that would identify certain situations that indicated the possible existence of violations of the revenue laws.

"My answer to that was that, since the Service did not have sufficient manpower to examine all of the returns it would like to, any information it received along these lines which would identify particular situations that had a revenue potential or in which there was some indication of noncompliance with the revenue statutes

would of course improve the Service's efficiency in administering the tax laws.

"The foregoing represents my best recollection of the conversation which ensued during the January 15th meeting. There were no specific tax cases discussed. The only court decision to which reference was made was the Ninth Circuit decision involving Local No. 174.

"I have shown this memorandum to Mr. Swartz and Mr.
689 Coard and they have indicated that it also represents their recollection of the meetings which they respectively attended."

THE COURT: Very well.

MR. PICKENS: May we stipulate that that would be Mr. Winkle's testimony?

MR. HITZ: Yes, sir. we certainly may.

* * * * *

723 UNITED STATES :

v. : Criminal No. 289-57

FRANK W. BREWSTER :

Washington, D. C. Thursday,
June 20, 1957.

EXCERPTS OF PROCEEDINGS (Cont'd.)

The above-entitled cause was resumed for trial before Honorable John J. Sirica, United States District Judge, at 10:00 o'clock a. m.

* * * * * * *

743 MR. PICKENS: I would like to offer this as Defendant's 29. This is part of the transcript --

THE COURT: What is it?

MR. PICKENS: This is Transcript of Hearings of May 8, 1947, Volume 20, before the Select Committee on Improper Activities in the Labor-Management Field, United States Senate.

It is during a period when Mr. Dave Beck, the President of the International Teamsters, was on the stand.

THE COURT: Now let me ask you the materiality of this? I mean, it may be material, I don't know. But for what purpose? This is after the alleged attempt. This is offered?

MR PICKENS: I am making this as an offer of proof.

THE COURT: In connection with your proffer, which you contend sustains your position that the defendant had purged?

MR. PICKENS: That is right.

THE COURT: Very well.

MR. PICKENS: This is from Page 3554, Senator Mundt:

744 "Was not that decision made in Miami when you were present at the meeting of Teamster officials there?"

He is referring to this telegram of Einar Mohn which appears in Government's 6, where many questions were propunded to Mr. Brewster:

"Mr. Beck. I decline to answer the questions for the same reason;" -- meaning previously he had taken the Fifth Amendment

"Senator Mundt: Can you answer that question?

"Now that Mr. Brewster, one of the vice presidents has been before this committee and did testify for five days in response to interrogatories propounded by the counsel and by the members of this committee, it appears that the policy of International has changed. Either that or Mr. Brester has refused to be bound by it. I would like to know whether there has been a policy change on the basis of your determination, or whether Mr. Brewster simply decided as a forthright American to answer questions despite the rule of censure you tried to invoke against him?

"Mr. Beck. I decline to answer the questions for the same reason."

I am merely making proffer of proof to show that Senator Mundt, a member of the Committee, has made the statement that Mr. Brewster
745 testified for five days in response to all questions asked by counsel of the committee and the members of the committee.

THE COURT: Very well.

MR HITZ: I object--

THE COURT: As I said -- pardon me. You may proceed with the record.

MR. PICKENS: He was a member of both committees. He had been a member of the Permanent Subcommittee and was made an appointed member of the Select Committee.

THE COURT: Have you finished?

MR. PICKENS: Yes.

THE COURT: I have already made rulings, I feel, that has denied the defense permission to introduce that kind of testimony on the ground that I feel that there is no evidence to show that the defendant had purged himself.

I am going to deny the offer of proof. You made a record of it. You made a proffer of proof. I will adhere to my previous rulings

763 ROBERT F. KENNEDY

was called as a witness for and on behalf of the United States, in rebuttal, and having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HITZ:

* * * * *

766 THE COURT: Mr. Reporter, will you repeat the question again that Mr. Hitz asked Mr. Kennedy.

THE REPORTER (reading)::

"Question: Mr. Kennedy, can you tell us whether you have any knowledge as to whether or not it was an afterthought on the part of the Committee in order to establish valid authority to conduct the investigation to which Mr. Brewster was subpoenaed -- that it was an afterthought to obtain both the testimony from the government officials of the Labor Department, the Labor Board, and Internal Revenue, and the registration or other forms filed with those Government agencies by Mr. Brewster's unions?

"Now, my question only goes so far, at this moment, do you have knowledge as to whether or not it was a committee afterthought. Your answer to that should be 'Yes, I have knowledge' or 'No, I do not'."

MR. PICKENS: I would like to say one thing more.

THE COURT: All right, go ahead.

MR. PICKENS: This question was an afterthought; that is my objection.

THE COURT: Let me ask you something, Mr. Pickens: Didn't you use that word during your defense, that this was an afterthought,

767 or in your argument?

MR. PICKENS: Oh certainly.

THE COURT: While Mr. Brewster was on the stand, or Mr.

Bassett; I have forgotten which one.

MR. PICKENS: Mr. Kennedy testified of the facts that existed at the time, to show that it was not an afterthought, but he cannot give his opinion. It is completely incompetent evidence and inadmissible evidence for him to sit up there now and give your Honor an opinion on the ultimate issue here of whether or not it was an afterthought.

THE COURT: That is what I am trying to find out.

MR. PICKENS: If he wants to introduce evidence showing that it was not an afterthought, then I suggest that he ask questions concerning facts that he can establish existed at that time.

It is incompetent for him to ask the witness' opinion whether or not at the time, three, four or five months ago, this jurisdiction thing was an afterthought. In the first place, I don't know what an afterthought is.

THE COURT: Well, you understand the question, Mr. Kennedy?

THE WITNESS: Yes, sir.

THE COURT: I am going to let him answer it.

BY MR. HITZ:

Q Do you have that information? A. Yes.

768 Q I am not asking for your opinion; I am asking do you have that information? A: Yes.

Q Will you tell us whether the Committee or its staff took any action with respect to forms filed with the Government by labor unions -- A Yes

Q What action, with respect to Government-filed forms by labor unions, did the Committee take prior to December 15?

THE COURT: Just a minute. Do you object to that, Mr. Pickens?

MR PICKENS: I object to that because, first, I want to know -- I think the record should show what kind of hearsay we are dealing with here, whether it was Mr. Kennedy or whether it was some member

of the committee.

If it was some member of the Committee, let him come down and testify. This is a rather crucial thing, and I don't think Mr. Kennedy's evidence is competent.

769 I think the Watkins case shows that the only thing you can introduce on purpose and scope of inquiry is the Chairman's statement. The Watkins case even through out (threw) speeches of Members of Congress on the Committee, and this is nothing more than a speech of Mr. Kennedy's.

THE COURT: Do you want me to dismiss from the case all of the speeches that you read in the record regarding the legislative history of this Act, and all of this hearsay that has been put in here on both sides? Do you want the Court to do that now?

MR. PICKENS: No, but, as your Honor knows, on hearsay there are certain exceptions to the hearsay rule.

THE COURT: I realize that; dying declarations, and things like that.

MR. PICKENS: Well, that is legislative history, and that happened at the time. What he is going to testify about now is what Mr. Hitz can show that this witness thinks happened at the time, and it is pure opinion.

THE COURT: Didn't I permit Mr. Brewster to testify on the stand the conversations he had with, I think some man named Elkins, and somebody named Rothman -- I have forgotten the name now, but I did not restrict your client to evidence which you may not have been able to get, I don't know.

It seems to me I have allowed wide latitude on both sides. I think I am able to sift the hearsay from the direct evidence in here.

770 MR. PICKENS: Well, I think on this issue we should know, your Honor, and I didn't understand his question to reflect some conversation that he had with the Chairman of the Committee.

THE COURT: As I understand the question -- let me see if I get the Government correctly: You want to know, I take it, whether or not prior to December 15 Mr. Kennedy, as counsel for the Committee,

or his staff, were looking into these forms that were supposed to be filed by these labor unions; correct?

MR. HITZ: Correct.

THE COURT: That is one of the things you want to know.

MR. HITZ: It certainly is.

THE COURT: I do not know if I quoted your exact words; but that is the substance of your question. Is that correct?

MR. HITZ: It certainly is, your Honor.

THE COURT: I think he can testify, frankly, as to when they started looking into these forms, when they had it in mind to start an investigation. I think it is material and I would like to hear it.

MR. PICKENS: Well, your Honor, I will take an exception to this entire line of testimony.

THE COURT: Very well.

MR. PICKENS: Because it seems to me this is a complete
771 afterthought. This could have been put on in direct, and is, in fact, part of the Government's case, and here we get down to the close of the case and are now going back on opinion evidence.

THE COURT: Very well.

MR. HITZ: I think, in answer to that, I should be allowed to make this remark, your Honor.

THE COURT: I will let you make any remark that is applicable.

MR. HITZ: It is to Mr. Pickens' last remark, and it is this: that I think Mr. Pickens prefers to make an argument to your Honor that this was an afterthought, and he is attempting to avoid evidence on the subject which I am trying to put in. This is evidence on that subject

THE COURT: I will let you proceed.

* * * * * *

BY MR. HITZ:

Q What action did the Committee to your knowledge take indicating the Committee's interest and endeavor to obtain information as

to the government forms that were filed by labor unions prior to December 15, 1956? A. Well, for one thing, we wrote a letter to the Department of Labor, Secretary of Labor, and asked him for
772 copies of certain of these forms. We did that, I believe, on November 6, 1956.

MR. HITZ: Would you mark this Government's 14 for identification, please.

(Government's Exhibit No. 14 was marked for identification)

And this as Government's 15 for identification, please.

(Government's Exhibit No. 15 was marked for identification)

* * * * *

BY MR. HITZ:

Q. Would you look at Government's No. 14 for identification and tell me whether you can identify that document? A. It is a letter addressed to Honorable James P. Mitchell, Secretary of Labor, Department of Labor, Washington 25, D.C., attention Mr. Stuart Rothman, Solicitor, dated November 6, 1956, and it is signed by John L. McClellan, Chairman.

(The exhibit was handed to defense counsel.)

Q. Is that the letter you spoke of? A. Yes, it is.

Q. Tell us in what stage, at what point in the investigation either of labor racketeering or of the procurement of government
773 uniforms, military uniforms -- whichever the case may be -- was this letter written? A. Well, as I testified to earlier, we had made this investigation up in New York of Government procurement.

Q. And dated, please, as far as you can. A. Well, it started back in 1955 and went through 1956. It was early 1956 that we received the information about the non-union shops operating in New Jersey and Pennsylvania; and that tied into these people was Local 102 of the I.L.G.W.U. and certain other union officials; Local 102 of the I.L.G.W.U. being the shipping local for the Lady Garment Workers,

and that was the union that exists in these plants where they make these uniforms.

We received that information and that they were shipping to these non-union shops, and they were run by gangsters and racketeers, and this was unbeknowings to the Government, and we got into that in early 1956, as I have testified to.

We then went into the connection between the heads of Local 102, Sam Berger and other individuals, and they included the Dios and Anastasia, and we had them down in executive session. At that time we were asked not to pursue it as actively as we had been, because of the fact that Johnny Dio was a suspect in the Reisel case. We went back into the matter and we started an investigation of Johnny Dio. At that time we got into --

774 MR. PICKENS: I think this is going way beyond the question he asked him, your Honor.

THE COURT: Well, is this leading up to this letter?

MR. HITZ: He is telling us the status of the investigation at which this letter was written.

MR. PICKENS: He has already testified to that, your Honor.

THE COURT: I realize that, but, in order to get the continuity of his testimony, I think I will let him testify.

MR. HITZ: And that is the purpose, your Honor.

THE COURT: That is what I would like to get. I realize he is testifying to some of these things -- is that correct, Mr. Kennedy?

THE WITNESS: Yes, and I said that at the beginning. That is how we got from that step into this.

THE COURT: Frankly, one of the things I want to learn is when they had in mind starting the kind of an investigation that they conducted when Mr. Brewster was called there as a witness. I think it is very important in this case.

MR. PICKENS: Well, I move to strike that, your Honor, because his testimony has gone beyond the response --

THE COURT: I think it is discretionary with the Court, and I will allow it.

THE WITNESS: Well, as I testified to this originally, we got into that, we got into Dio's connections with certain other individuals
775 in New York, and the formation of the so-called, the certain UAWU, AFL locals of New York City. We started to make a study of those matters and their use of funds, and we found during this period of time that there were funds coming from those local unions that were going to individuals who were fictitious or did no work; and during this period of time, or after we had uncovered this, we got in touch with the Labor Department --

MR. HITZ: Now just a minute.

BY MR. HITZ:

Q. You say there were instances that came to your attention of union funds going to persons who were fictitious. I want to ask you a couple of questions about that.

That was the distribution in that fashion of labor funds? A. That is correct.

Q. Were the fictitious persons supposed to have been officers of those particular unions whose funds were thus used? A. Yes, that is correct.

Q. In other words, they were fictitious officers? A. That is right.

Q. Who were receiving salaries? A. That is right.

Q. For performance of work that was not done because the
776 persons supposed to perform them never existed? A. Not only salary, but organizational expenses.

Q. Now, in addition to that, at that period had your committee come across what were known as "paper" unions? A. Yes. Well, of course, that became public knowledge in early 1956, so-called paper locals in New York City.

Q. But did your committee come across that? A. Yes; because

these people that I am talking of were also tied into that.

Q. I see. A. They had charters not only in the UAW, AFL but also in certain of the teamsters' unions.

These UAW locals became in large part the teamster locals which were paper locals, allegedly paper locals.

Q. You say they became teamster locals? A. They received to a large degree -- the heads of these unions that I am speaking of, UAW, AFL, became officials in the teamster locals in December of 1955, and became heads of those teamster locals of which a number of them had no members.

Q. All right, sir. A. Those are the so-called paper locals in New York City.

Q What is a paper local? A. Well, as it is popularly
777 accepted, a paper local is a local that exists merely on paper. It has no members.

Q Is that the way in which your committee accepted that term "paper local"? A. That is correct.

Q Were these facts that you have testified to here just now in the information of the Subcommittee in early 1956? A. Well, not early The paper locals, you mean -- that part of it?

Q Well, let's put a date into your testimony at which all of these things you have just mentioned were known to the committee, to your knowledge. A. You mean everything that I have said?

Q. Yes, sir. A. Well, I would think that was probably in, well, perhaps September or October of 1956. At least in part. Now, we continued our investigation and we knew about the paper locals and we knew about some fictitious payments, some of that. Now, we didn't have the amount of information certainly that we had after we progressed another two or three months, but we had certainly the outline of the information that I have given to you, in the middle of the summer of 1956 or the fall of '56

Q And does that include the information concerning paper

778 locals and payments to non-existent union officers? A. That is correct.

Q. With union funds? A. Yes, sir.

Q. And do I understand that to be the summer of 1956? A. The summer or fall of 1956.

Q. Well, fall is a long time. What part of the fall? A. Well, we started into those unions in May -- Well, I would think that we probably had most of that information by September or October of 1956.

Q. All right, sir. A. I would think that at least by that time. Now we might have had it before, but I couldn't testify that we had it before then.

Q. I will ask you specifically concerning the paper union information and the payments out of the union funds to fictitious officers, did you have information on those two subjects by October 1, 1956? A. Yes.

Now, Mr. Hitz, I am going to have to -- on the paper locals we definitely had the information. On the payments to fictitious people, I will have to say that I just know that it was in the fall of '56. I can't pinpoint it as October 1, 1956.

779 Q. Can you say it was before November 6, 1956? A. I would believe it was. To the best of my recollection I believe it is. I would say that it was.

What I - my problem is that we knew of some of this misuse of union funds. Now, we had accumulated other information regarding the misuse of union funds, other than the payments to fictitious people. Now, I know that we had accumulated this information prior to November 6, 1956, but when you ask me specifically about the fictitious people, I know that we had it during this period of time and that it was brought to my attention, but I can't say exactly. That is my problem.

Q. Well, I am particularly interested in the misuse of union funds, whether or not it goes to fictitious persons. A. Well, I know

that. I could testify to that.

Q. And misuse of union funds in what fashion, did you have definitely to your recollection prior to November 6? A. Well, I am going to -- Well, I am going to really have to come back again that the main case, it is my recollection that the main discussion was on this one. I know that we had discussions and that we knew that there was a misuse of union funds, and that is why we wrote the letter, and the only thing that comes to my memory at the present time was on this question of these fictitious people.

780 Q. Well, Mr. Kennedy, there is no reason why you can't discuss the case that is mentioned here in this yellow paper. Are you attempting to avoid that? Because it is perfectly proper for you to do so. A. Yes.

Q. Well, will you do so?

THE COURT: Wait a minu e, Mr. Hitz, before you make that statement. May I look at the letter to find out whether or not it is proper to do so?

MR. HITZ: Yes, sir.

MR. PICKENS: The letter has not been offered yet, your Honor.

MR. HITZ: I will offer it now.

THE COURT: Do you have any objection to my looking at the letter?

MR. PICKENS: I have no objection to your Honor looking at it. I am going to object when he offers it.

MR. HITZ: I will offer it now.

THE COURT: Let me read it first, and see what it says.

(Government's Exhibit No. 14 was handed to the Court.)

THE COURT: Do you object to it?

MR PICKENS: I do, your Honor, because, one, it is not the best evidence, and the best evidence is under the control of the Government, the Department of Labor. If they want to introduce it,

781 we have no guarantee that that is the way the letter went out. It is only a file copy.

THE COURT: I will overrule the objection.

(Government's Exhibit No. 14 for identification, was received in evidence.)

* * * * *

BY MR. HITZ:

Q. Mr. Kennedy, did the establishment of paper locals involve, according to information at the hands of the Committee in 1956, prior to November 6, involve the use or misuse of union funds?

MR. PICKENS: Your Honor understands I have a continuing objection --

THE COURT: You have a running objection to all the testimony.

MR. PICKENS: All right.

THE WITNESS: Yes, Mr. Hitz.

BY MR. HITZ:

Q. In what fashion? A. Well, that union officials, who are heads of unions that had no members, were receiving monies. That, in our estimation, was something worthwhile pursuing and looking into.

782 Q. I will now ask you, Mr. Kennedy, what information the Committee had to your knowledge prior to November 6, the date of this letter to the Secretary of Labor, concerning the misuse of union funds including that in the operation of paper locals? A. Well, we had that information, which was public information. We had the second information, to the best of my recollection we had the information regarding payments to fictitious people in the locals that were controlled by Harry Reiss, Fred Virgilio, Arthur Santa Maria, officers who testified before the Subcommittee in January, 1957.

MR. HITZ: Your Honor, might I read to you and to the record certain excerpts of Government 14 now in evidence?

THE COURT: You might read the whole thing. It is only two pages, is it not?

MR. HITZ: Well, there are --

THE COURT: Well, let me ask Mr. Kennedy this.

MR. HITZ: Yes, sir.

THE COURT: Is there contained in the letter which you just read, and which is held now by Mr. Hitz, certain local unions that are members of the Teamsters' Union involved in this case?

THE WITNESS: Yes -- Oh, involved in what, in the --

THE COURT: We are talking about the Western Conference.

783 THE WITNESS: No.

THE COURT: There are not?

THE WITNESS: No, there are not.

THE COURT: There are not any in there?

THE WITNESS: No.

Of course, the investigation up in New York started earlier than the one on the west coast, and this letter was written based on information we uncovered in --

THE COURT: Well, let me see it a minute.

(Government's Exhibit 14 was handed to the Court)

Here is one, "Local 282 -- Building Material Teamsters, 265 West 14th Street, New York City."

THE WITNESS: There are a lot of teamster locals in there, your Honor, but there are none from the West Coast, I don't believe.

THE COURT: I understand, but are they members of the parent organization?

THE WITNESS: Yes, that is right. There are a large number of teamster locals --

THE COURT: It could be a member of the Eastern Conference?

THE WITNESS: That is right.

THE COURT: There are some on here that are members of the Eastern Conference?

THE WITNESS: That is right. These are unions that we had

784 been looking into prior to the time --

THE COURT: Before the investigation of the Western union, Western Central, Eastern and Southern?

THE WITNESS: Western, Southern, Eastern, and Central.

THE COURT: All right.

MR. HITZ: The principal purpose of this offer is to show the knowledge and the intent of the Committee as well as a pattern they followed in a like situation.

THE COURT: That is the reason I am permitting it, because at least an inference has been raised in this case that this was an afterthought.

MR. HITZ: Yes, sir.

THE COURT: That this idea of going into investigating the unions involved in this case, occurred after December 15, 1956, when Mr. Kennedy had his conference in Seattle and Mr. Brewster, Mr. Bassett, I think Mr. LaPoma, and I have forgotten who else might have been present, and therefore the defense has been contending, at least by inference or innuendo, that Mr. Kennedy or the Committee, the Subcommittee which he represented, had no idea of looking into these various matters which they subsequently looked into, that is after December 15, 1956.

MR. HITZ: Precisely.

MR. PICKENS: There is no inference. I mean, that is our contention.

785 THE COURT: That is your contention; all right.

Then at least we understand each other.

MR. HITZ: Also having in mind that Mr. Brewster made provisionally a refusal to produce the records for inspection on December 15, and on December 19, after having been served with a subpoena, followed it up by a telegram that appears on page 40, I think, of the record, that he would not offer them to the Committee.

(Reading):

"November 6, 1956.

"Honorable James F. Mitchell, Secretary of Labor, Department of Labor, Washington 25, D. C.

"Attention: Mr. Stuart Rothman, Solicitor.

"Dear Sir:

"In a matter now under investigation by this Subcommittee, it is requested that the registration certificates filed under Public

Law 101, 80th Congress, Section 9, Sub F(2), showing the names and titles of the principal officers of union locals, be made available for examination to staff members of this Subcommittee on the following listed union locals, as well as such others as may be requested by staff members from time to time:"

Then follows a number of listed locals of the United Automobile Workers, AFL.

786 On the following page there is listed some ten locals, by number, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers. Every one listed on that page, I should say for the completeness of the record, are stated to be located in the New York City area.

On the following page, which is page 3, there is a continuation of the list of locals, by number, still under the heading of the Teamsters' International Brotherhood, and those locals are stated to have addresses in the New York City area except for the last one, No. 560, which is addressed by the designation of Hoboken, New Jersey.

I am sorry, it is not the last one; it is third from the last. All of the others are the New York City area.

The letter concludes in this fashion:

"Your cooperation in this matter will be greatly appreciated.

"Sincerely yours,

"John L. McClellan, Chairman."

BY MR. HITZ:

Q. Now, Mr. Kennedy, is this a copy of a letter from the files of the Subcommittee on Investigations of the Government Operations Committee? A. Yes, Mr. Hitz, it is, and I can also say unequivocally that the information regarding these fictitious people, or the payments to these fictitious individuals, we had information prior to

787 this time, because -- I can say that now because I remember that the individuals conducting the investigation --

MR. PICKENS: Your Honor, I don't think there is any question pending.

THE COURT: Well, there is not any question pending on that.

MR. HITZ: Is this in further answer to an earlier question of mine?

THE WITNESS: Where I was doubtful, and I thought that I could show how I could clear it up in my own mind.

MR. HITZ: I think if this is in further answer to an earlier question, he is entitled to answer.

THE COURT: I will let him answer.

BY MR. HITZ:

Q. Will you now give the more complete answer to that question? A. We definitely had this information in October. The individuals who conducted the investigation were Mr. Tierney and Mr. Bellino -- Mr. Bellino did the accounting work.

-- When we went to California in early November of 1956, and we stayed on the west coast through November and December of 1956, so there would never have been the opportunity to do the work up in New York that needed to be done on these individuals. So, therefore, the information was available, which it was my recollection -- the infor-
788 mation was available in the early fall of 1956.

Q. Now, let's get that "fall" out of this picture. Is that before or after November 6, 1956? A. It is before November 6, 1956.

Q. Did this copy of this letter come to your attention prior to this trial? A. Yes, it did.

Q. Does this memorandum attachment reflect that fact (indicating)?

Are these your initials? A. Yes, they are.

Q. To a note attached to this very document? A. That is correct.

MR. PICKENS: I want to call your Honor's attention to the fact that in connection, I think, with two of the three subpoenas, or at least one of them, we asked for all data and information that the Committee had showing the purpose of the investigation.

Now he has just introduced this in evidence for that very purpose, and yet he represented here two days ago that the minutes that he produced

pursuant to the subpoena was the only data, the only information, that the Committee had.

THE COURT: I don't recall right now what it was. Do you remember what your representation was in that statement, counsel?

789 MR. HITZ: I remember that my representation was truthful when made, and it is truthful now. I don't remember exactly what it was, but I remember that I studied those subpeonas, in the descriptive matter, and I submitted to them all that were turned over to me.

MR. PICKENS: Do you not offer this now as showing the purpose of the inquiry and what investigation was under way in November of 1956?

MR. HITZ: This does not show the purpose of the inquiry. This shows a procedural investigative technique that was followed in order to fully uncover what it was they were looking for, and to see the impact upon the Government activity of information that they had received.

THE COURT: I understand another purpose of that letter is to show whether or not, if it is a fact, whether or not Mr. Kennedy and the Committee had in mind prior to December 15, 1956, when he was on the west coast, to conduct an investigation such as they did conduct in January, 1957, regarding the matters that have been testified to in this trial.

MR HITZ: Precisely.

MR. PICKENS: Whatever the purpose is, your Honor, it is still information and data that we called for in the subpoena and that we were not given. I don't care what the purpose was.

790 THE COURT: Do you know the reason why it was not furnished to counsel, if counsel called for it?

MR HITZ: It is either one of two reasons: Either it was not furnished to me, and I am not certain of that, or, if it was, it did not come within the description in the subpoena.

THE COURT: Well, at any rate, it is in evidence now, I believe.

MR PICKENS: Well, I think, your Honor --

THE COURT: Do you think you have been prejudiced by this?

MR PICKENS: I think I have been prejudiced by --

THE COURT: Pardon me?

MR. PICKENS: Yes, sir.

THE COURT: Do you think any substantial rights of your client have been prejudiced by this letter coming into evidence at this stage of the trial? If you do, I wish you would point them out to me. Any substantial prejudice to your client by your not having received this letter as a result of some subpoena I think you said you served on the Committee?

MR. PICKENS: The prejudice to Mr. Brewster is that the Government apparently feels that they don't have to comply with subpoenas, and they get up and represent that they don't have information and then they start in, on rebuttal, bringing it in piecemeal. If they are going to bring any of it in, let's bring it all in.

791 THE COURT: Well, maybe it should have been brought in during the case in chief, but now, as I said, I don't know why they did not produce it - - maybe they didn't find it until after that time; I don't really know -- but the fact of the matter is that it is here now. I think it is important evidence; it is important to the Court and important to the defendant, and also the Government, I think.

MR. PICKENS: Well, it is the principle, your Honor. I don't think the letter shows anything, so I --

THE COURT: Very well. That is a concession, I guess, that it has not done any harm to the defense.

MR. PICKENS: No, but I think the defense has been done distinct harm by the failure of the Government to produce any information and data on the purpose of the investigation.

THE COURT: Very well.

MR. PICKENS: They represented that all they had was two minutes, and they represented that one minute was not even a minute of a meeting of the subcommittee, that it was only a conference, but when it turns up it turns out to be a fulldress meeting of the Subcommittee rather than just a conference that it is represented as being.

Now, I am not criticizing Mr. Hitz. My criticism goes more to whoever selected these documents at the committee or subcommittee
792 level, because I would accept his statement that these were all the documents that were turned over to him.

But I say this subcommittee comes in here, brings in a useless indictment, and then when the defendant tries to avail himself of the Federal Rules, we are completely stymied; we get no documents, we get nothing.

THE COURT: I would like to remind you of one thing, Mr. Pickens. You talk about the Subcommittee bringing in a useless indictment. As I understand it, this indictment was returned by the Grand Jury in this courthouse; not by the subcommittee.

That is correct, isn't it?

MR. PICKENS: Oh, that is correct, your Honor.

MR. HITZ: It is not a useless indictment. It certainly brought Mr. Pickens and his client to court.

THE COURT: Well, I don't think we will have any discussion on that.

Mr. HITZ: I think I should be allowed to make a reply to Mr. Pickens. A part of what he had to say was a charge that I did not produce documents called for by the subpoena. At the end he puts the onus of that on the Subcommittee. But it is my view of this document that it does not show the purpose of the Committee. It shows a step taken in the course of obtaining some information. I don't think it comes within the descriptive matter. But, furthermore, since Mr. Pickens has seen fit, in one part of what he had to say, to make a
93 charge against me, I am going to ask Mr. Kennedy:

BY MR. HITZ:

Q. At what time did you first show this to me, Mr. Kennedy?

A. It was within the last 24 hours. Within the last 24 hours, I believe, Mr. Hitz.

Q. Did the Labor Department, Mr. Kennedy, in answer to that letter, supply the registration forms to the Subcommittee that were requested on those local unions, including certain teamster locals?

A. Yes, sir.

Q. Did you have at that time working under you on the staff an attorney named Jerome S. Adlerman? A. I did.

Q. Did you give Mr. Adlerman any instructions as to what to do with the material that was obtained from the Secretary of Labor in these registration forms? A. I was to review the material.

Q. And was he to report to you on the review of the material? A. Yes; to write a memorandum.

Q. Did he do that? A. He did.

Q. When did he do that? A. November 8.

794 Q. 1956? A. 1956.

Q. Two days later? A. That is right.

Q. Did you say he reported in a written memorandum his analysis of these matters? A. A 13-page memorandum, I believe.

Q. And is that Government's No. 15 for identification (handing document to witness)?

THE COURT: Now, let me suggest this, Mr. Hitz: We have already gotten Mr. Kennedy's testimony on this matter. Of course, I realize I have let the doors down, so to speak, on both sides but, if you are going to offer this as an analysis of a report made by Mr. Adlerman--

MR. HITZ: I am not going to offer it, Your Honor.

THE COURT: I see. You are not going to offer it?

MR. HITZ: No.

BY MR. HITZ:

Q. Is Government 15 for identification, Mr. Adlerman's report of an analysis of this material? A. It is.

MR. PICKENS: I assume I am going to have a chance to look at that.

MR. HITZ: Yes.

795 THE COURT: He said he was not going to offer it.

MR. PICKENS: He let the witness look through it.

THE COURT: Any objection to showing it to counsel?

MR. HITZ: No. I would be very glad to have him look at it.

THE COURT: I think he is entitled to look at it.

MR. PICKENS: You go ahead, if you want to, and I will look at it afterward.

(The document, Government 15 for identification, was handed to counsel for defense.)

BY MR. HITZ:

Q. Mr. Kennedy, was there included in that memorandum from Mr. Adlerman two days later, an analysis also of the receipts and disbursements parts of those registration forms? A. The names as well as the receipts and disbursements.

THE COURT: Excuse me, what was the date of that analysis?

MR. HITZ: November 8, 1956.

THE COURT: Thank you.

MR. HITZ: Mr. Pickens, I am not going to offer that, and I am going to question now on a slightly different subject.

MR. PICKENS: Your Honor understands my objection to the last question he asked, but I want to state the further reason:

796 He elicited some information from him that would have been contained in these documents, had the Subcommittee or the full Committee felt they had to comply with the subpoena.

That is an additional reason that I object to his last testimony.

THE COURT: Very well.

MR. HITZ: I wonder if the Court, however, would inquire of Mr. Pickens that his statement that he is not making a contention that he has been prejudiced in any way also goes to his last remark?

If there is no prejudice to Mr. Pickens, that he can asert. I think we may as well have that fact on the record.

THE COURT: I have already asked him that. I will ask it again:

Is there any prejudice or harm that has been done by this?

MR. PICKENS: Your Honor, I don't think that is a fair question. How do I know? How do I know what this information shows?

THE COURT: What information -- that which you have in your hand?

MR. PICKENS: No, but the information that they haven't produced.

THE COURT: I understood they produced it all, didn't they?

797 MR. HITZ: You are reading it, Mr. Pickens.

THE COURT: All right, let's proceed.

BY MR. HITZ:

Q. Mr. Kennedy, were you aware when you went to Seattle in the latter part of November, 1956, of the request by Senator McClellan of the Labor Department for the registration forms of those other unions, and of Mr. Adlerman's analysis of the material including disbursements and receipts found in those forms? A. I was.

Q. Mr. Kennedy, please look at Government 15 for identification and answer this question:

Did you direct that memorandum to the attention of any other persons of the staff? A. I did.

Q. To whom? A. To Mr. Bellino and to Mr. Tierney. The memorandum was written by Mr. Adlerman to me and I directed it on, in pen, to Mr. Bellino and Mr. Tierney.

Q. And did you initial that direction to Bellino and Tierney? A. I did.

Q. Is it on here? A. It is.

Q. Front page? A. Yes, sir.

798 Q. At the top? A. Yes, sir.

Q. Mr. Kennedy, prior to December 15, 1956, did the Committee or staff, to your knowledge, have information concerning the truthfulness and accuracy and completeness of registration forms filed with the Labor Department under the Taft-Hartley Act, and of forms filed with the Internal Revenue Bureau by unions looking towards tax exemption? A. Yes, we did.

Q. What was the information, that those forms in some instances were true and some false, or what was the information? A. That is correct. We had information that some of the registration forms that were filed were inaccurate, and were false.

Q. How long before December 15, sir, approximately, did you have that information? A. Well, in as far as the Labor Department was

concerned, on the situation in New York we had that information from the memorandum of Mr. Adlerman on November 8.

MR. PICKENS: I don't think that is responsive to his question, your Honor.

THE COURT: Well, I think you can ask him how long he had that information, without having him tell about the memorandum.

799 MR. HITZ: I don't think my question was very clear.

BY MR. HITZ:

Q. The Committee caused the executed forms of those named locals to be sent to the Committee, or copies thereof, in November, 1956.

My question, since leaving that particular document, related to when did the Committee to your knowledge first get information -- not forms, but, first, information -- that there were inaccuracies in forms that were filed? A. Well, we had discussions in the middle of 1956 -- again, the middle -- in July or August of 1956.

Q. Did the discussions resolve themselves, or not, into information? A. Yes.

Q. So that in that time, early -- you say early or mid '56? A. Well, August of 1956.

THE COURT: Just a minute. Mr. Pickens is standing.

MR. PICKENS: He is leading him along, your Honor. I don't object to leading questions, but this is something that is very crucial, I think.

THE COURT: Mr. Pickens, I believe it is the rule of evidence that whenever either side puts on a witness in rebuttal, you are permitted to ask leading questions. That is not the rule on direct examination.

800 MR. PICKENS: Put it is the rule on rebuttal, your Honor, I believe, that if he is referring to some question on direct; but I don't think when he is going into a new subject that it is the rule. That is my understanding, anyway.

THE COURT: Very well.

BY MR. HITZ:

Q. Mr. Kennedy, you have stated that you had discussions in Mid 1956? A. Yes, sir.

Q. On the subject of the truth or falsity of the information contained in the registration forms. A. Yes, sir.

Q. I am now asking you did you have information of any falsity in that period? Had you been informed of false information? A. Yes, we had been. We had been informed that the filings were false.

* * * * *

801 BY MR. HITZ:

Q. Mr. Kennedy, was there any relationship between your receipt of the information of falsity in the registration forms with the Labor Department and your request to inspect those forms? A. Yes, there was.

Q. What was the relationship? A. Well, we had the information that they were false. We wanted to document it based on the records from the Labor Department, and, if we found that this information that we had received was true, then we wanted to find out what the Labor Department was doing about it.

Q. Mr. Kennedy, the documents, Government's 14 and 15, the latter for identification only, were related to unions other than any of the unions -- I will put it this way -- related to unions other than the Western Conference, other than Joint Council 28, and other than Local 174 with which Mr. Brewster was connected? A. That is correct.

Q. With that preliminary, let me ask you this:

At some subsequent time -- by that I mean subsequent to the request of November 6 for the Labor Department to supply forms on those

802 Eastern or Central, or whatever they were, locals -- did the Committee obtain from the Labor Department registration forms executed by Mr. Brewster and others? A. Prior to November 6?

Q. No. Did they obtain them at all? A. Yes, we did.

Q. And approximately when did you obtain the statements which pertained to Mr. Brewster's activities? A. I believe it is early January of 1957.

Q. I see. A. It was shortly after I returned from the West coast.

Q. I would like to ask you this question, in view of your testimony, Mr. Kennedy:

Was it or was it not an afterthought of the Committee, to your knowledge, -- an afterthought entertained after December 15 -- to obtain the registration forms and the income tax data from the agencies concerned? A. Definitely not.

Q. Mr. Kennedy, the defense has offered its Exhibit 23 in evidence, which is an opinion of the Ninth Circuit Court of Appeals, a federal court, issued November 8, 1956, entitled "Local 174, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and Nugent LaPoma, versus United States of America." Did you at any time become aware of that litigation? A. Yes
803 I did. Yes.

Q. When did you first become aware of that litigation? A. Well, I expect during 1956 sometime. I think that was during 1956.

THE COURT: Were you going to object, Mr. Pickens?

MR. PICKENS: Yes, sir. He said he expected it was during 1956.

THE COURT: What is your best recollection?

THE WITNESS: It was during 1956.

THE COURT: Thank you.

BY MR. HITZ:

Q. Did you become aware of the Ninth Circuit Court of Appeals decision on the subject of November 8, 1956? A. Yes, I did.

Q. When did you first have that come to your attention? A. In the end of November or early December, probably around the First or Second of December of 1956.

Q. That was prior to your first interview with Mr. Brewster on the 15th. of course? A. It was.

MR. HITZ: Your Honor, I am sure Mr. Pickens would not object to my reading a bit from his exhibit.

804 THE COURT: Well, he offered it in evidence.

MR. HITZ: Yes.

804 BY MR. HITZ:

Q. I would like to ask you would like to ask you whether you had any or all of this information at the time that you talked to Mr. Brewster on December 15 and served upon him a subpoena? A. I did.

Q. Let me read it to you, first.

THE COURT: What page?

MR. HITZ: "This is a proceeding to obtain discovery"--

MR. PICKENS: Your Honor, I have this objection:

Is this a method to refresh his recollection or, I don't think he has probed his mind to find out if he knows what is in the opinion. If he knows what is in there, why, I don't think it is proper to read the decision prior to the time he asks him.

THE COURT: That is true. I think if Mr. Kennedy knows substantially what is in the opinion, or if he needs the opinion to refresh his recollection to be accurate about it, I don't see why he can't look at it.

You might ask him that preliminary question, if he remembers substantially what you want to ask him about.

MR. HITZ: Yes, your Honor.

THE COURT: Or if he has to have the opinion to refresh his recollection.

805 BY MR. HITZ:

Q. Would you look at Mr. Pickens' Exhibit No. 23, please, sir, the first page. A. Yes, sir:

Q. And the second page.

THE COURT: Let me ask you, Mr. Kennedy:

How long has it been since you have read that opinion, without looking at it? Approximately how long?

THE WITNESS: Since December--I might have read it a couple of times in December.

THE COURT: Now, can you testify from your own recollection of what you learned by reading that opinion, or is it necessary to refresh your recollection by looking through that opinion?

THE WITNESS: I don't know what questions. I remember some of the opinions.

THE COURT: Propound your question, then, Mr. Hitz.

MR. PICKENS: I would like to hear what he remembers first, before he starts reading to him.

THE COURT: Well, maybe you can indicate which part.

MR. HITZ: I don't believe Mr. Pickens wants his exhibit read.

THE COURT: Well, don't let's get into an argument. We have been doing very nicely so far in this case.

MR. PICKENS: I would just as soon have it read out of the
806 hearing of this witness.

MR. HITZ: Well, I think I can arrive at a question that will satisfy what I am trying to get at.

THE COURT: Suppose you try to arrive at a question, then, that is satisfactory.

MR. HITZ: Yes, sir.

BY MR. HITZ:

Q. Mr. Kennedy, did you obtain any of the information concerning which you questioned Mr. Brewster on December 15 in his office, and any of the information concerning which he was questioned before the Committee, from the statement of facts of the Circuit Court's opinion that I have just shown you? A. I don't quite understand the question.

Q. Well, this opinion has several pages devoted to a statement of facts of the litigation. A. Yes.

Q. And you stated that it came to your attention some week or two before-- A. That is correct.

Q. And I am asking you whether, having that before you and in your attention, when you saw Mr. Brewster on December 15 and then, of course, when he testified here in Washington, did you base any of your questions to him on either one of those occasions on some of the information asserted in the statement of facts of this opinion?

807 A. Yes, we did.

MR. HITZ: Mark this the next number, please.

THE DEPUTY CLERK: Government's 16 for identification.

(Government's Exhibit No. 16 was marked for identification)

BY MR. HITZ:

Q. Can you identify Government's 16 for identification. Just answer "I can" or "I cannot." A. I can.

MR. HITZ: I offer 16, your Honor.

THE COURT: Let counsel see it.

(Government's 16 for identification was handed to defense counsel.)

MR. PICKENS: I would like to know the purpose, your Honor.

THE COURT: Will you state the purpose for offering the exhibit?

MR. HITZ: Yes, your Honor.

This is one of the mimeographed copies run off of the opening statement of Senator McClellan, which was available on January 16, 1957, generally available. It was released to the Press.

This statement by Senator McClellan was read by him at the session, and it has become his opening statement as we have it in the

808 hearings. This is another form of it. It is in another form here; it is the same statement.

So much for what it is. Its connection with the case is that Mr. Kennedy will be able to give us testimony concerning whether or not a copy exactly like this, from the same mimeograph, was presented to all of the witnesses who appeared on that first day, including Mr. Brewster and including Mr. Brewster's counsel. Both Mr. Brewster and Mr. Bassett stated that they were given copies of purported opening statement; that each one had one; that they read it then and studied it later, and that, however, it was not anything like, or was not identically like the statement that later they read that was read in this trial in the hearings.

I am going to dispute that and present this.

THE COURT: Let me ask Mr. Pickens, do you dispute what Mr. Hitz has just said?

MR. PICKENS: I would like to hear Mr. Kennedy's testimony first. I wish your Honor would abide his testimony before you rule on that.

THE COURT: Whose testimony?

MR. PICKENS: Mr. Kennedy. He said Mr. Kennedy was going to testify on a number of things. He has already primed him on it, and I would like to hear his testimony.

THE COURT: No, hasn't there been testimony in the record that Mr. Brewster, I think, was furnished a copy of the opening state-
809 ment that Senator McClellan made?

MR. PICKENS: I don't know if that is the same one, your Honor. That has been corrected--there are ink marks on there. I don't know whether it is the same one.

THE COURT: Well, let me suggest this: Suppose you, during the lunch hour, take this statement and compare it with the statement that is in Government's Exhibit No. 6.

MR. PICKENS: That is not the point, your Honor. I don't know how many mimeographed runs they had of Senator McClellan's statement; I don't know whether this is the same one, and I don't know whether this is a copy like this that was given to Mr. Brewster and Mr. Bassett. I don't know whether they would know now.

THE COURT: Are you contending that the statement that you hold in your hand is the very identical statement that was given to Mr. Brewster, or a statement similar to that, Mr. Hitz?

MR. HITZ: I will contend, through the testimony of Mr. Kennedy, that this is one of the only--or one of a number of the only statement that was made as an opening statement by Senator McClellan, and ever made by that Subcommittee.

Not that this is the one--this is the only one that was made, and this is an identical copy of what they received.

THE COURT: Could there be any objection to that?

810 MR. PICKENS: It is corrected in ink, your Honor. I don't know--were all the statements so corrected?

THE COURT: Let me see it, will you.

(Government's Exhibit No. 16 was handed to the Court.)

MR. HITZ: I may say those red underlinings, I put those on there, your Honor.

THE COURT: There are three underlini gs with a red pencil; is that right?

MR. HITZ: That is right.

The reason I have those, I only have two copies of that and I have misplaced the other one, and this is my working copy, but I don't think those three underlinings are going to influence the Court.

THE COURT: I will admit it.

MR. PICKENS: I will object to it, your Honor. We called the Committee and they told us there were none available and--

THE COURT: Where did you get this from?

MR. PICKENS: --that they never had released any, about three weeks ago.

THE COURT: Ask him where he got this from.

(Government's Exhibit No. 16 for identification was received in evidence.)

MR. HITZ: Mr. Adlerman gave me one of these when he

811 brought over the transcripts, immediately after the citation of the several witnesses, and I was furnished another copy since that time, and I think within the last couple of days I was furnished another copy.

So I have got two copies. This happens to be my working copy, and I have misplaced the other one.

But Mr. Kennedy is going to identify this particular document I have here.

* * * * * * * *

812 BY MR. HITZ:

Q. Mr. Kennedy, did you take any part in the drafting of an opening statement for Senator McClellan to make at the commencement of these hearings? A. I did, yes.

Q. And was an opening statement drafted for him? A. An opening draft was made for him, a draft of an opening statement was made for him by me.

Q. I see. And then did he go over it? A. Yes, on the night of January 15th, I drafted it up on January 15th, in the morning I believe, and he went over it the night of January 15th.

Q. And was it reproduced? A. It was typed up around 11 o'clock p. m. that night and was mimeographed the following morning, January the 16th.

Q. That was the final version of your original draft? A. Yes,
813 the only one that was mimeographed.

Q. Did the Senator make some changes in it and then have it done? A. Well, he made some changes in my original draft, and then this one was mimeographed.

Q. You say there was only one such opening statement ever drafted? A. That is correct.

Q. And ever reproduced? A. Ever mimeographed, again going back to the one I made for him and then he did over two or three times and then finally came into its form that it was mimeographed in.

Q. Is Government's 16 a paper that you recognize? A. Yes, it is.

Q. As what? A. As the opening statement that he read and which he drafted the night of January 15th, --

Q. And this is it? A. --the one that was mimeographed the morning of January 16th.

Q. This is a mimeographed copy here? A. Yes.

Q. And this is one of the ones? A. Yes.

814 Q. Where were they the next morning shortly before the hearings commenced? A. Room 101, Senate Office Building, --our

office.

Q. Did you give any of those to the witnesses who were going to testify that day? A. Well, I know that I gave or caused to be given. My best recollection is that I personally gave several copies to Mr. Bassett. I cannot say that absolutely. I can say absolutely that I gave or caused to be given a copy of this to Mr. Bassett.

MR. PICKENS: I believe the question was "if he gave".

THE COURT: Let's see if he remembers.

THE WITNESS: My best recollection is that I gave the copies to Mr. Bassett, several copies to Mr. Bassett.

* * * * *

815 BY MR. HITZ:

Q. Approximately what time of the morning? A. I believe as I was going up to the hearing, between 9:30 and 10:00 o'clock.

MR. HITZ: All right, sir.

No further questions, your Honor.

MR. PICKENS: I have no questions, your Honor.

THE COURT: Very well.

MR. HITZ: Thank you, Mr. Kennedy.

(The witness was excused.)

MR. HITZ: We have no further rebuttal, your Honor.

THE COURT: Very well, Does the Government rest?

MR. HITZ: The Government does rest its case.

THE COURT: Gentlemen, it looks like we are going to consume at least the rest of the afternoon on arguments. I am not going to hold you to forty-five minutes. If you need a little longer, of course, you can have it.

What I would like to do is complete the arguments this afternoon. Then I have got some more work to do on this case over the weekend. I may not be able to dispose of it until Monday or Tuesday. We will see how far we can go.

Would the Government make the opening statement?

816 MR. HITZ: Yes.

MR. PICKENS: I would like to make a statement before he proceeds, your Honor.

During the proceedings this morning when we were talking about things that the Government had produced and had not produced, in connection with these two or three subpenas, I didn't mean that there should be any inference on the record that Mr. Hitz had suppressed or withheld or had not given me anything that the subcommittee had given him.

My charge that the Government was not giving us everything was aimed solely at the subcommittee, or the full committee, and I am not changing that in one iota.

But I want the record to show that Mr. Hitz represented to me that he supplied me with everything that the Government gave him; and I accept his statement, and I believe it to be true, and I didn't mean to question it this morning.

THE COURT: I am sure he understands that.

MR. HITZ: Thank you, sir.

Shall I proceed, your Honor?

THE COURT: You may.

OPENING ARGUMENT ON BEHALF OF UNITED STATES

By: William Hitz

MR. HITZ: Your Honor, the only contest that, apparently, is being made of the charges in the indictment, is whether or not the
817 committee had authority to conduct this investigation and to ask these questions and make these demands of Mr. Brewster.

The requirement for authority of this committee to act in an investigation is that the investigation be in the field of Government activity, and that it be to determine the efficiency and economy of that activity. In such a field the committee can ask all pertinent questions.

The Government activity here is very plain. It is in two fields. It is in the field of the regulation and the enforcement of the flow of interstate commerce to see to it that labor unions in particular do not hinder the proper flow, and that in the course of facilitating the flow

of commerce that the rights that have been given to labor in the Labor-Management Act of 1947, commonly called the Taft-Hartley Act, and the privileges that were given to labor to come before the National Labor Relations Board thereby set up, that those privileges should be observed.

Now those privileges to call upon the extensive organization of the Labor Relations Board to enforce the rights that labor unions have, not only as between the members and the officers but the rights that they have in dealing with employers and other rights that they have, are ones that are guaranteed them by the Labor Relations Board. But they are guaranteed only to those labor unions which are proper labor unions.

818 By that is meant ones who can qualify.

Now the means of qualifying to avail themselves of a privilege and a right guaranteed by the Labor Relations Board is to file certain financial and other reports, or rather reports that have financial and other information contained in them; and of all things, to do that with the Labor Department.

Then the Labor Department, as we know, sends a two-piece postal card back to the union which is a certificate of compliance and then that union organization sends one to the Labor Relations Board, and that union is in, so to speak, from then on.

Now in the course of these investigations that were conducted by the subcommittee, it came to the attention of the committee that there were abuses by certain Labor Unions and largely by the corrupt officers of those unions in the field of the misuse of union funds, and that those misuses of funds--union funds--were concealed from the authorities, that is, concealed from the Labor Department who would supposedly have divulgence and truthful divulgence of the financial matters of a labor organization.

Likewise, there is another government activity. The Treasury Department, that is interested in labor relations or labor unions, and they give a bonanza--the Treasury Department gives a bonanza to the

labor unions in the form of making it exempt from income taxes, which
819 is imposable upon every bit of income. The individuals, corporations, and other legal entities except labor unions have to pay income taxes.

This bonanza or gift, of course, was intended by Congress and will be tolerated by the public, only if it is given to proper unions. By that, I mean, unions whose offices have officers who do not mulct the membership of funds or unions that do not tolerate their officers to do so, having been given notice of such activity.

Now these two important governmental functions which fields have been entered by the Government are ones whose economy and efficiency can and should be examined whenever it comes to the attention of this subcommittee or this committee having delegated to the subcommittee that authority, whenever it comes to the attention of the committee that such an investigation is warranted.

I should say that in my opinion--I don't think there is any question about it--the intention of Congress was to grant the privileges of the National Labor Relations Board only to labor organizations which are proper ones in the sense that their officers aren't stealing from them and that the unions do not permit their officers to steal from them.

Now, having that in mind, if there is a misuse of the funds of
820 labor unions by their officers, either with or without the permission of the membership, that persons who should not be permitted to avail themselves of the expensive program and organization of the Labor Relations Board should not be protected by the privileges and the rights that have been granted by that Act. It would be a useless, it would be an expensive operation to grant it to unworthy unions and thereby perhaps to make the enforcement of the laws less available to unions that do deserve it.

Likewise, in the field of the tax exemption, if it is possible for crooked union officials to misuse funds, either to divert those funds of a union to improper channels, or to themselves, that would be to extend

the privilege of tax exemption, which would be very jealously guarded, to unworthy entities or persons.

Now this tax problem is of course an extremely important one, because it has a double ramification. A union officer who is going to steal from the union funds--and I say that advisedly because we have had information here from Mr. Kennedy that the committee was so informed with respect to certain labor officers--that if they steal from the union and divert funds, they are not only getting a tax exemption as an unworthy entity, but of course they are going to likewise carry that same concealment over into their own personal incomes and we are going to find that they are not declaring as income that embezzled por-
821 tion of the union funds. So it works two ways to the government activity to operate the government.

It is that Government activity along with the Labor Department and Labor Board that this committee had the power to easily investigate to determine the efficiency and economy of that activity.

Now I have indicated the field in which this committee was operating, and I have indicated that they had information that an evil existed. The committee having that information here sought to determine whether or not it was indeed true that the evil existed which would have the impact that you have seen and that I have indicated on both the Labor Department and the Labor Relations Board in that field, and upon the efficiency and economy of the Tax-collecting and revenue branch of the Government.

That is precisely what they sought to do here. They sought to determine whether the information and the rumors that they heard were well founded, and if they were well founded, the extent of that evil.

They asked Mr. Brewster concerning whom they had information. They asked Mr. Brewster to produce the books of the union so as to determine whether or not it reflected that he had been given over $30,000 in several years over for his own personal benefit outside of labor employment; and if, indeed, he had received some $1500 or

822 whatever it is to purchase an automobile, either for him or his wife, whether his horse stables had been in part financed by union funds, all of which would be improper uses, and ones which would derogate from the proper operation of both the Labor Department and the Labor Relations Board, and the privileges and the rights that were granted but would not be tolerated except to proper unions.

Now it might be of some interest to the Court, although I don't think we have to establish this, in what possible ways this committee could operate or could conduct the investigation and conclude it so as to be of help to the Congress in a field open to it for recommendation.

Now I think there is no question but what this committee might well, after having conducted these hearings--and it didn't get anywhere with them--but they might well have determined to recommend to Congress in the labor field, let's say, rather in the commerce field, and particularly commerce as it is concerned with the regulation of and the rights and privileges granted to labor, to state most importantly, which must have been the intention of Congress at all times, it then certainly is the will of the people, I am sure, that only decently operated and properly run labor unions are going to be granted the expensive and important procedures of the Labor Relations Board; and of course, having that intention, which I am sure Congress did have, to implement it, either to say that the Labor Department shall be given a

823 staff and an appropriation sufficient to investigate the truthfulness of labor union reports that are filed with the Department, or to recommend to that delegation such investigative authority and jurisdiction over those labor department reports be given to some other organization.

It might be more efficient; it might be more economical, if it should be decided that proper unions should continue in the field of tax exemption to give to the already set-up investigative department or Bureau of the Treasury Department the function to determine the truth and the accuracy and the completeness of the forms that are filed with

the Labor Department as well as to authorize and compel them as the common agency for investigation in this field to conduct an investigation with proper personnel to see that only proper unions are granted tax exemption.

That would be one possibility. How to administer it? The very obvious intention, that only unions who truthfully reveal their financial operations should be granted the rights in the labor field and the labor relations field and the bonanza in the tax field.

Of course it might be that the committee would make other recommendations that would be of considerable importance. I think it is of great importance. I think it is the controlling importance in this case, for instance, that we have here Government Exhibit Number 18,
824 Joint Resolution Number 94, which is a resolution introduced by Senator Hill, with the concurrence of Senator McClellan and many others, which calls for the making public of the information contained in the financial forms that are filed under 9(f), (g) of the National Labor Relations Act.

Now one of the defense exhibits here, the stipulation concerning what would have been testified to by the Secretary of Labor, states that he had a conference sometime subsequent to January, 1956, with Senators Hill, McClellan and others, and that partly as a result--I think that was the very expression--partly as a result of the disclosures of this subcommittee's hearings that we are speaking of here, the Department of Labor had decided to seek the sponsorship of this resolution.

Now that is extremely important for this reason: that Congress did not, when it passed the Labor Relations Act, actually set up anybody to make investigations of the propriety or the worthiness of the unions that had been given the Labor Relations Board privileges.

I have no doubt by reason of the fact that one of the provisions of that Act was that the same reports and the same information filed with the Labor Department should be made available to the membership

of the union, that that fact indicated that it was the purpose and the hope of Congress that the unions would police themselves, and that
825 the disclosure to the membership of the information that had to be given to the Labor Department would result in a possible check by the membership, and if it found, or if it got information, or if it knew someone of them might know of improprieties on the part of the officers of a particular union, particularly in the misuse of funds, they could find some way to turn those officers out and self-police their own unit, and that then ultimately, if that took place over a long enough period of time--

THE COURT: Let me interrupt you right there.

These reports or forms that were filed with the secretary of labor,--or the Labor Department?

MR. HITZ: Yes, sir?

THE COURT: Am I correct in my understanding that those reports were not to be available to anybody? In other words the actual reports of the financial condition?

MR. HITZ: That is right. They were confidential.

THE COURT: Do you think this committee had a right, with the idea in mind of recommending legislation which would provide that the regulations promulgated by the Secretary of Labor regarding these various forms that were to be filed--I have forgotten the number of the form, but under the Taft-Hartley Act--that the Secretary of Labor should have the power by legislation to require that labor unions, through their offices, shall file truthful reports?

826 By then shall state, for instance, that the true number or exact number of members they have, how much money they receive in dues, so that the Labor Department might have some check on this information and if these might become necessary might circulate that information to the membership of those units?

Do you think this committee had that power and authority to recommend that kind of legislation, if it saw fit, after a hearing?

MR. HITZ: I most certainly do.

THE COURT: Is that your position?

MR. HITZ: It is one of our positions. I certainly think that, and I think it was the duty of this committee to make such a recommendation if the evil was found to exist and if there was any substantial prevalence of that evil at all.

THE COURT: You think that the committee would have a legal right, under the Reorganization Act and the powers given to the committee and the subcommittee, to investigate or ask for an appropriation to investigate, say, the background that some of these officers who might belong or be members of what they call these "paper" unions?

MR. HITZ: Yes, sir.

THE COURT: Suppose a labor organization is set up, just as an example, and it was being operated and set up by a group of ex-
827 criminals with bad records, and that the organization was not set up for the purpose of bettering the relationship between labor and management, as most unions are; suppose it was set up just for the purpose of making as much money as these men could possibly make? Suppose they fake or forge or submitted information disclosing that they had a certain number of members--say a hundred members--and they then actually had a thousand members paying a substantial amount of dues, and they faked all of these reports? But still, in order to get some window dressing and things like that they would file these forms with the proper authorities, the Secretary of Labor, so that they could have their members know that they were granted the facilities and services of the Labor Board.

Do you think legislation could be recommended with a view to correcting that sort of an evil situation?

MR. HITZ: I certainly do.

THE COURT: All right.

MR. HITZ: And I certainly think this committee would have the power to make the recommendation, and I think it has the duty to determine if that evil exists in the course of an investigation.

Now this self-policing theory of labor unions I think was further exphasized and further carried out by this very resolution that I have mentioned here, Joint Resolution Number 94.

828 I think when Secretary of Labor said in his statement here, his stipulation, that that request for legislation was partly an outgrowth of the revelations of this particular hearing, that he was indicating that the efforts that had already been made to self-police unions by having them get access to the same information that had to be filed with a union with the Labor Department, who was requesting labor board privileges, that that had not been fully successful and that he hoped that it might be successful or more successful, it should be, if the public generally had this same information, so that an energetic newspaperman, so that a member of the public, so that a person with whom there had been some outside corruption, might in some fashion or another determine that that having been concealed to the Labor Department, that they are an improper and unworthy union.

So that I think this is an outgrowth of and a further development of the theory of self-policing of labor unions, which is one of the theories behind the Labor Act itself.

To emphasize it again, the Secretary of Labor said, partly due to what he heard in the course of these hearings, that he was making this recommendation.

The hearings would have paid for themselves both in time and money if this Joint Resolution alone were passed.

829 I don't have anything more to say about the possibilities of investigation and recommendation that this committee had in these hearings.

I would like to emphasize to the Court that this is not a case of first impression. We are not resorting to an exercise of mental gymnastics in order to arrive at lawful authority for this hearing.

This case has in this jurisdiction three extremely important precedents for the authority of this committee in this field, in this

particular investigation, and to ask these questions.

Yesterday your Honor was good enough to permit me to give you the citations of those authorities in advance, and I would like, however, now at this time, to refer to them.

* * * * *

833 THE COURT:

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834 And I would like to hear Mr. Pickens discuss this: Under the present situation does this special subcommittee of government operations, did it have a right, in your opinion or the Government's opinion, if it is found as a fact that (1) the Labor Department had the lawful right to require certain registration forms, could it have gone further and said, "Well, now, we find these additional facts, that your regulations aren't strong enough, you don't require the information that you ought to require."

I realize that the radio and television stations exist by license
835 from the Federal Communications Commission. But in this particular situation, could the Labor Department say, "Well, if you are going to accept the services of our National Relations Board and the facilities of our Board, we are going to have to in effect do something about regulating your conduct. Therefore, we are going to insist that you file truthful statements--not only for our own benefit but for the benefit of your members, if you want us to allow you to spend the Government's money to allow you to come before the Labor Board, all right. We want you to come in Court with clean hands and disclose the background of your organization, likewise."

Now, did the Labor Department in these cases, or the National Labor Relations Board, have those powers? Or, if it didn't have that authority should Congress do something as a result of this investigation to see that they get these powers?

Now that is one of the vital points in this case. It has been discussed pro and con and I know Mr. Pickens will touch it. That to me is a very vital part of this case. I just wanted to let you know I have been

giving it considerable thought and I have not come to a definite conclusion.

MR. HITZ: Your Honor, I certainly take the view that of course this committee has that right and it has that duty.

836 I would like to point out that in the case that we have here, this committee might well have been only seeking to separate the good from the bad unions. Those that are deserving of the privileges under the Board, and those that were deserving under the bonanza of tax exemption. So that it would not necessarily have to get into the broad field of saying we don't think unions should be tax exempt. They could have gotten into the efficiency and economy of collecting taxes by saying that the good union should continue to have it and the bad ones shouldn't.

THE COURT: The only reason I interrupted is so both of you could keep that thought in mind. If you would enlighten me on it, it will help me a lot.

MR. HITZ: I do want to keep it in mind.

In that same connection, there is evidence in this same case from the Secretary of Labor's stipulation, I believe, that since these particular hearings a new form has been promulgated by the Secretary of Labor in compliance with this labor Act 9(f) and (g), in which there are three important changes. One is that generally they require more information; second, it is stated in there that the form is executed under the knowledge of the penalties of Section 1001 for false statements.

I guess there were only those two important changes. But that is an important thing that grew out of these hearings.

837 Now that could just as well have been a formal declaration by the committee. It wasn't.

Now, lest I forget, and I have been reminded by your Honor that the House counterpart of this committee, the Expenditures Committee then called the House and conducted an investigation in 1948 and reported on it, entitled:

"Investigation to Ascertain the Scope of the Interpretation by General Counsel of National Labor Relations Board," of the

term "affecting commerce," as used in the Labor-Management Relations Act of 1947.

Now if Mr. Pickens should endeavor to urge upon your Honor, as I am sure he will and has, that this is a watchdog committee which can't get into the substantive law covering any particular activity, here is an instance where the House counterpart undertook to go into the interpretations of the Labor Relations Board legal staff, affecting commerce, which is the most important part of the substantive law on the subject.

Now I am not saying there were any attempts (contempts) that grew out of it, because there weren't. But there is an assumption of authority broader than we have here by the counterpart in the House.

* * * * *

839 Now we concede that much of the information gathered by the committee could not have been the subject of a contested hearing by
840 this committee. But naturally so. This committee hearing here, this investigation, had a very natural outgrowth, which I will not burden the Court to repeat, from the procurement investigations of a year or so earlier.

One thing led to another: the paper unions, finally to Seattle, and horse vans and what other (all). And there we do get into the misuse of union funds: As to whether or not they are proper unions who are being tax exempted and being given the privileges of the Labor Act.

Senator McClellan is the one who I think put this case in its best perspective, one with which I would like to leave with your Honor.

This is in one of the defense exhibits. I don't remember which one. Perhaps Mr. Pickens can supply the record with that. But it is whichever one is the Congressional Record for January 30, 1937.

Now on January 30 the Select Committee's resolution for a committee to be composed of labor and government operations members, was introduced, discussed, debated and passed, and from then on we had that committee with broader powers.

Senator McClellan had some remarks to make which on that

date put this case in perspective.

Now, let's have in mind, because this is an answer I can hear
841 being formulated almost at this moment, because I have heard part of it before, that Senator McClellan himself had doubt about the authority of the committee to conduct these hearings. When he offered S. Res. 14 in January he expressed that doubt, because he said:

"I am asking in S. Res. 14 for funds and authority."

Well, of course, Senator McClellan, a very experienced Senator and I believe a lawyer, he knew the scope of this committee's authority. He knew it far better than some of us here, because he had to do with the formulation of the Reorganization Act, the change of name to Government Operations and all that your Honor has been hearing about.

Also, he knew, as we know here, that part of the hearings or the hearings we have here, which have to deal with the government activity of the regulation of unions and the rights and so on that they have in tax exempt privileges, was of course a government activity that could be investigated here. Mr. Pickens admits that. He admitted it in his opening statement.

He conceded that the committee had authority to call Mr. Leedom and Mr. Mitchell.

Mr. McClellan goes farther. Of course he goes farther, and he in effect says: "We had authority to call them, and if we see an evil in the efficient and economic operation of their departments, we
842 can determine if it exists and, second, the scope and extent of that evil." It is verifying information that Mr. McClellan of course felt, as he stated, that there was clear authority.

This is on page 1137. This is after something happened to that amendment that was going to give him extra authority, or the resolution that was going to give his committee extra authority, and finally it was determined as a matter of policy between labor and government operations to have a joint committee, and here is what he said on this occasion, January 30th:

"I contend that when we held public hearings a few days ago, and also when we held some executive hearings, we understood, or we undertook to confine the hearings to the area in which I felt confident, beyond any doubt, in my mind, that the subcommittee had jurisdiction. But at all times I had said that if this job is to be done completely and--"

THE COURT: Read that part again, will you?

MR. HITZ: Yes, your Honor.

"But at all times I had said that if this job is to be done completely and thoroughly"--meaning to get after the use of funds and the pinballs and so forth.

"That if this job is to be done completely and thoroughly, the Senate Investigating Subcommittee would have to have additional authority, which I requested in a resolution I submitted
843 several days ago."

That is S. Res. 14.

"At the same time the distinguished senior senator from New York submitted a similar resolution in which it was requested that the committee on labor and public welfare be given such additional authority"--

THE COURT: Let me ask you, Mr. Hitz, on that:

What was the additional authority that Senator McClellan was asking for? How did the new Select Committee differ from the law under which he was operating or under which his committee was functioning? I think it is in evidence.

MR. HITZ: S. Res. 14 is in evidence as Defendant's 13. Defendant's 14 is the S. Res. 74 which is for the Select Committee.

Actually, I am not prepared at the moment to distinguish between those two.

THE COURT: Are you prepared, Mr. Pickens?

MR. PICKENS: I frankly can't see any. It is Defendant's 13 and 14. You are asking the difference between 14 and 74?

Well, of course 14, as far as I know, the only difference is,

there is a long list of "Whereases" clauses. But both of them deal with with labor racketeering.

THE COURT: What I was interested in is comparing the
844 language. The one setting up the Select Committee and the one under which this investigation was conducted, to see what additional powers they needed, or authority.

MR. HITZ: Well, 14, which is Senator McClellan's first, broader resolution, you might say, would give his committee authority to study whether there exists any infiltration of persons engaged in pursuing criminal practices and activities in the fields of organized labor or any other corrupt, collusive or illegal practices.

That is a field in which, unless it touched upon the misuse of funds, and therefore, upon the economy and efficiency of the government's privileges and rights and government agencies to enforce and to recognize them, probably would not be within the power of this committee.

THE COURT: Let me ask you this: Was Senator McClellan seeking by this new Select Committee that he wanted to set up under a new resolution, to have the power to investigate unions that did not file or did not have to file a registration statement with the Labor Department?

MR. HITZ: Oh yes.

THE COURT: Is that one of the reasons that he wanted a new quiet committee set-up, so that he could go into alleged racketeering in labor unions, even though those labor unions did not file a registration statement with the Department of Labor?

MR. HITZ: Well, the resolution doesn't say in so many words
845 whether or not they are subject to filing under the 9(f) and (g). They don't say that. But the resolution refers to all unions.

THE COURT: Well, this hasn't been cleared up in my mind. Maybe when Mr. Pickens gets up--or maybe you can do it. As I understand it, not all labor unions filed a registration statement with the Labor Department; is that correct?

MR. HITZ: Yes, it is.

THE COURT: Only those that are going to use the services or facilities of the National Labor Board?

MR. HITZ: That is right.

THE COURT: Now in the discussion on the Floor or in the Senate, in connection with broadening the scope of the activities of this Committee, the present committee that we are talking about, was it Senator McClellan's idea that if he could get a resolution through the Senate which would permit his committee, functioning as a new Select Committee, to go into the internal affairs of those labor organizations which did not seek the services of a National Labor Relations Board? Did he feel by his expressions that he was limited under the present law that his subcommittee was operating, that is, he could only inquire into the affairs of the union that filed or registered, or filed a registration statement with the Labor Department; whereas, if he asked for additional power or authority he could get that by setting
846 up a new Select Committee whereby he could go into the internal affairs of all labor organizations all over the country, regardless of whether or not those organizations filed a registration statement with the Department of Labor or not?

Was that what he was seeking?

MR. HITZ: I have never heard any expression by him or on his behalf in that connection.

THE COURT: All right.

MR. HITZ: All I know is that his authority would go to all labor unions.

And I have an idea too, in fact this, I believe that this committee's authority would extend that far, because it might be that the economy and the efficiency of--well, certainly in the tax exempt field--that has to do with all across-the-board unions. Whether they come before or--

THE COURT: That situation doesn't exist in this case. We are only concerned now with those organizations that filed registration

statements.

MR. HITZ: Oh, I don't think so, your Honor.

THE COURT: Oh, of course, your Western Teamsters.

But you claim, the claim is that the committee has a right to conduct the investigations in connection with the economy, as to whether or not these unions should be required to not be tax exempt.

MR. HITZ: Oh yes. I think that is extremely important. I think tax exemption is a discrimination against every other person and legal entity in this country.

THE COURT: I realize it.

MR. HITZ: Yes, sir. And to grant tax exemption to an unworthy union would certainly be unconscionable, and it would be the rankest kind of discrimination, and it might well be unconstitutional. I don't know about that.

But in any event, if we look only at the Treasury Department angle at this time, even the argument that the Western Conference had never been compelled to file and never did any, therefore is not within this committee's authority with respect to the Labor Board. That argument doesn't have any place on the Treasury side.

That would certainly be enough to decide this case upon. But certainly we say that the powers of this committee would be such as to determine whether or not the Western Conference should have filed or should have not filed to obtain the Western Conferences papers and records, to determine whether or not it is what I have been calling a worthy union.

I would like to supply your Honor with the Defense Exhibit number of this reference to Senator McClellan's debate.

848 Do you have your number for January 30th?

MR. PICKENS: We think it is 28. It is in the evidence.

THE DEPUTY CLERK: Number 17.

MR. HITZ: That defense exhibit which contains Mr. McClellan's statement which I think puts this case on perspective, is Defense 17

Senator McClellan repeated again that same position that they only undertook what they clearly felt was within the realm of government activities investigations with these persons they were citing, in the debates of citation, which debates of citation in part and with Mr. McClellan's statement of it, has become Defendant's 28, dated February 19, 1957, in the Congressional Record.

Your Honor, I have nothing further to add. I think we have here a clearcut case. I can't think of a case in which there is more clearcut authority, unless they are investigating the comptroller general or something of that kind.

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887 CLOSING ARGUMENT ON BEHALF OF THE UNITED STATES

by Mr. William Hitz, Assistant U. S. Attorney

MR. HITZ: I want to direct some remarks to the question that Mr. Pickens said it was expressly stated in the Taft-Hartley Act that the penalties of Section 1001, the false-statement statute, would apply to all of the requirements for filing of papers under Section 9, and that is the (f), (g) and (h).

The penalty provision of 1001 applies only to the non-Communist affidavit, Part (h). The last sentence of (h), which is on page 12 of this pamphlet that we have in evidence as Government's 1, I think, states that the provisions of Section 35 (a) of the Criminal Code--which is 1001--shall be applicable in respect to such affidavits: and that refers only to the affidavit of non-Communism which is provided for in that section. All of the others are not even referred to as affidavits

888 in the other papers to be filed.

So that it was a new angle of procedure in economy and efficiency that arose from these hearings that that particular thing would be placed in the new forms promulgated by the Secretary of Labor.

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903 Wednesday, June 26, 1957.

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904 MR. PICKENS: Yesterday afternoon, as your Honor knows, I

filed a motion to postpone the decision in this case until a time on which both brother Hitz and myself could be heard on the impact of the Watkins and other cases that I will refer to in a moment.

Of course, this motion is made and my argument is based upon the fact that if your Honor is about to render a decision other than for acquittal.

The Watkins case is a very comprehensive opinion and it is, I believe, a complete upheaval in this entire field of contempt of Congress.

Now, as your Honor knows, on Monday of this week the Supreme Court granted certiorari in Barenblatt v. United States, 240 Fed. 2d. 875; Sacher v. United States, which was 240 Fed. 2d. 46; and Flaxer v. United States. The important thing is that the Supreme Court vacated the Orders of our own Court of Appeals in all three of those cases, and sent them back to be considered in the light of the Supreme
905 Court's ruling in Watkins v. United States.

Now, I am not prepared today to argue the merits. I have read and re-read several decisions, of Barsky v. United States, which was 167 Fed. 2d. 241, and Eisler v. United States which is 170 Fed. 2d. 273, and several other contempt of Congress cases decided by our own Circuit Court of Appeals and the Courts of Appeal in other circuits, and I am completely convinced, your Honor, that every contempt of Congress case since 1946 in the District Courts, in the Courts of Appeal, even where certiorari has been denied, where there has not been a Supreme Court decision, has to be completely re-examined. On the basis of my study since I learned of the Supreme Court's decisions on Monday, I predict that over two-thirds--and I think that is a very low estimate--two-thirds of all the decisions that have been rendered since 1946 are no longer law.

I don't believe that any of us realized the impact of the Watkins decision until we read these other decisions.

Now, in the Watkins case your Honor will recall that Chief Judge Edgerton, of our own circuit, dissented and that Judge Baselon

dissented, and their decisions became in effect the Supreme Court's opinion in the Watkins case.

I believe that Chief Judge Edgerton's dissent in the Barsky case is now the law, and that in the Barsky case the majority opinion is no longer the law in this Circuit. Likewise, I believe that Judge Pretty-
906 man's dissent in the Eisler case, which has been referred to several times during the course of this hearing, is the law and not the opinion of the majority court.

The Lamont case, which is a case in the Second Circuit Court of Appeals, which most of the judges in this district can refuse to follow because of the Court of Appeals decision in the Barenblatt case, I believe now is the law in this Circuit; and I believe that the Barenblatt case is going to be reversed by the Supreme Court if not by our own Court of Appeals when it is reconsidered.

Now, the Flaxer case that was sent back on Monday, and the order vacated, was a powerful dissent--there was a powerful dissent in that case by Chief Judge Edgerton and Judge Bazelon, and one of the issues involved is whether documents called for in the subpoena were pertinent. Judge Fahy also dissented on another issue that was somewhat more minor.

Now, in the Sacher case you had a panel of judges--Washington, Bastian, and Burger--and the main issue there was the claim that the resolution of the parent committee was hopelessly vague. The same as in the Watkins case, and the same that we have in the Brewster case, only the Brewster case is worse.

In the Barenblatt case, which counsel, I believe my brother Hitz cited eight or ten times, as your Honor will recall in connection
907 with his motions or with his oppositions, rather, to our earlier motions to dismiss, it is the case that the Government has said precludes this District from following the Lamont case of the Second Circuit. I am confident the Barenblatt case is going to be completely overruled on the basis of the Watkins case.

The important thing, I think, is not that a decision be made

today but rather that a decision be made in accordance with the mandate of the Supreme Court in the Watkins and these other cases, and it is not important that a decision be made today; I think it is important that the right decision be made, your Honor, and I would just like to quote for the record the Order of the Supreme Court of Monday which applies to the Flaxer, the Barenblatt and the Sacher cases. Actually, it was a per curiam order in the Sacher case:

> "The petitions for writs of certiorari in these cases are granted, the judgments of the Court of Appeals for the District of Columbia are vacated, and the cases are remanded for consideration in light of Watkins v. United States, No. 261, October Term, 1956, decided June 17, 1957. Mr. Justice Clark dissents for the reasons stated in his dissenting opinion in Watkins v. United States, Supra."

Now, in the Watkins case, your Honor, and I am sure in connection with these considerations of whether certiorari should be
908 granted or whether these orders should be vacated, Mr. Justice Clark made a very powerful dissent. In his dissent in the Watkins case I think he raised every issue that has been raised by brother Hitz in this case, and despite the fact that the Supreme Court has had that compelling argument of Mr. Justice Clark, we have, I believe, a six-to-one decision in that case; Justices Burton and Whittaker not participating. So all the arguments that have been raised by the Government in this case I believe have been considered by the Supreme Court in the Watkins case.

The Supreme Court, we feel, has expressed a mood. If the Supreme Court believes it important enough to vacate the judgments in the Barenblatt case, in the Sacher case, and in the Flaxer case, and to send them back to our Court of Appeals where we all know it is going to be 30 to 40 days before briefs are due, and new briefs, I am sure, are going to be required in view of the Watkins case, that the scheduling of new oral arguments is going to be made thereafter, and I am sure that the oral argument will not be before one panel of the

Court, it will be before the Court sitting in banc, because, as a matter of fact, the Flaxer case was considered by the Court in banc.

Now, likewise, your Honor, I think of extreme importance is the Supreme Court's decision on June 17, 1957, in Sweezy v. New Hampshire. That case, of course, involved an investigation provided for by the state legislature, and they held that the investigation was
909 invalid under the 14th Amendment. Now, of course, it differs some from the decision in the Watkins case, but as far as the fundamental philosophy is concerned I think the basis is almost the same.

Now, on the basis of Sweezy v. New Hampshire, on last Monday the Supreme Court sent two cases back to the State Supreme Court of Ohio, they vacated the orders, they asked the State Supreme Court of Ohio to consider these cases not only in light of Sweezy v. New Hampshire, your Honor, but in light of Watkins v. United States, and I would like to read two sentences from the order in one of those cases.

The two cases they sent back, the first was Morgan v. Ohio, No. 206 Miscellaneous, in the October Term of this Court, and the other one was Raley v. Ohio, No. 306 in this Term. The decision below was 164 Ohio Supreme Court 529; 133 N. E. 2d. 104; and in the Morgan case the Supreme Court, in per curiam order, said as follows:

> "The judgment of the Supreme Court of Ohio was vacated, and the case is remanded for consideration in light of Sweezy v. New Hampshire, by Wyman, Attorney General, No. 175, October Term, 1956, decided June 17, 1957, and Watkins v. United States, No. 261, October Term, 1956, decided June 17, 1957. Mr. Justice Burton would note probable jurisdiction and set the case down for argument. Mr. Justice Clark dissents from this disposition of the case for the reasons set
> 910 forth in his dissenting opinions in Sweezy v. New Hampshire, by Wyman, and Watkins v. United States, Supra."

Now, the order in the Raley v. Ohio reads as follows, and it is an identical order, per curiam order:

> "The judgment of the Supreme Court of Ohio is vacated

and the case is remanded for consideration in light of Sweezy v. New Hampshire, by Wyman, Attorney General, No. 175, October Term, 1956, decided June 17, 1957, and Watkins v. United States, No. 261, October Term, 1956, decided June 17, 1957. Mr. Justice Burton would note probable jurisdiction and set the case for argument. Mr. Justice Clark dissents from this disposition of the case for the reasons stated in his dissenting opinions in Sweezy v. New Hampshire, and in Watkins v. United States. Supra."

Thus we say, your Honor, if your Honor's decision is an acquittal for Mr. Brewster, I think it is completely in line with Watkins v. United States. I think that Sweezy v. New Hampshire is important, not because the same amendment to the Constitution is involved, but because from Sweezy v. New Hampshire you get the feeling and the mood of the United States Supreme Court, and we say this is rather a summary action the Court has taken. It has told our Court of Appeals that they want them to read and re-read the Watkins case, and it has told the Supreme Court of Ohio that they want them to read
911 and re-read the Sweezy case and also the Watkins case.

So, therefore, your Honor, if your Honor's decision is other than for acquittal, we respectfully request from ten days to two weeks in which to prepare a brief that we may brief the Watkins case, the Barenblatt case, the Sacher case, the Flaxer case, and all these other authorities that we had thought heretofore, at least until Monday a week ago, was the law of this district and the law of the land. And I submit that these Supreme Court announcements are a complete about face, and I think one of the most tremendous upheavals in any line of decisions that has been handed down in recent years.

Thank vou, your Honor.

THE COURT: Do you wish to say anything, Mr. Hitz?

MR. HITZ: Your Honor, it is our view that the Watkins case said much but decided very little, and that it is a narrow decision extending to some extent the decision theretofore reached by that same

court in Quinn, and this gives merely to a witness, who protests the pertinency of the question, the right to know so that he may make a conscious choice, and that is a good deal like what the Supreme Court did in the Quinn case.

We think that whatever the decisions, in its implications in the Watkins case, that everything has been met that is required there in that case by the evidence in our case, and we invite your Honor's
912 ruling.

THE COURT: Mr. Pickens, the Court is familiar with the Watkins case and all of the cases cited in your motion and memorandum to postpone the decision. The Court will overrule your motion at this time, and I am ready to announce my decision.

At the close of all of the evidence in this case, defendant through his counsel renewed his earlier motion for a judgment of acquittal on all of the counts of the indictment, and again moved to dismiss the case. At this time the Court denies both of these motions based on the reasons I have set forth in a memorandum opinion which I am filing with the Clerk of the Court this morning.

The Court finds the defendant guilty on each and every count of the indictment.

* * * * *

1 August 22, 1957

Above-entitled matter came on for sentencing, before HONORABLE JOHN J. SIRICA, United States District Judge, at 10:30 a. m.

APPEARANCES:

On behalf of the United States:

Arthur McLaughlin

On behalf of the Defendant:

John K. Pickens

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2 THE COURT: Do you desire to say anything before sentence is pronounced?

MR. PICKENS: I think your Honor will recall that after

Mr. Brewster refused to testify before the Senate Permanent Committee, after the Select Committee was set up, he notified them he would appear and testify as they required. I believe Your Honor recalls on the 15th of February he turned over all his documents to the new Select Committee.

Pursuant to a telegraphic notice, he came to Washington on the 28th of February and appeared before the committee daily, or at least kept daily contact with them until he was called to testify on the 15th of March, and he testified for five full days, answering all questions that were asked by the committee.

As a matter of fact, two members of the committee, Senator Goldwater and Senator Mundt, publicly congratulated him and thanked him for aiding the committee at that time.

I believe your Honor also recalls that on the same day there were three other witnesses that refused to testify--Mr. Comer and Mr. Reese.

On the 7th of August, when Mr. Reese appeared before the full committee for the first time, the chairman told him if he answered the questions fully, that he would purge himself and that if he helped the committee in any way that the committee he would take it in mitigation. That appears in the record of the committee at page 1132, if Your Honor cares to look at it.

So, whatever obstruction Mr. Brewster caused to the legislative process before the Senate Permanent Committee, he completely removed by his appearance before the Senate Select Committee on March 15th and the five following days.

Since that time the committee has asked him for even more records, which he has turned over to them.

I submit to Your Honor that I don't think there is any doubt, I think the testimony in the case shows that he questioned the jurisdiction of the committee on advice of counsel, that he did it in absolutely good faith; and I think his subsequent conduct before the Senate Select Committee bears out the good faith with which he exercised what he thought

was his constitutional right.

Under those circumstances I don't feel he should receive any more than the minimum penalty in this case.

THE COURT: Mr. Brewster, do you wish to say anything before I pronounce sentence?

4 THE DEFENDANT: No, Your Honor.

THE COURT: Mr. Pickens, I remember the case very well. I have taken into consideration most of the things that I think you have stated in your argument.

I think Mr. Brewster was represented by very able counsel--you and the other two associates.

Here is one thing I can't disregard decipher in this case. I have given this case considerable thought during the trial and subsequent thereto.

You will recall, I think, there was some testimony in this case that certain people met in Chicago after, I think a subpoena had been served on Mr. Brewster to appear in Washington, I think on December 27th, and then by mutual consent the case was continued until the following month because of the Christmas holidays. This whole thing was reviewed, as I remember the record, and you correct me if I am in error--I believe there were some attorneys there--I don't remember whether Mr. Brewster was there or not--but at any rate, there were several people at this conference.

As a result of the conference, it was determined then and there to challenge the authority of the subcommittee--not only the subpoena but questions of certain witnesses.

5 It was further decided, probably on advice of counsel--I don't know--but, anyway, that conference resulted in not only Mr. Brewster coming to Washington and refusing to answer questions after the chairman of the committee had given Mr. Brewster and Mr. Bassett, the attorney, a statement showing the purposes of the investigation. I feel frankly that this was deliberate contempt on the part of the defendant, deliberate contempt on the part of the defendant and whoever advised him; that is their business; he is entitled to counsel.

You will recall I asked Mr. Brewster on the stand and Mr. Bassett if he didn't realize at the time he refused to answer certain questions before the committee, based on the fact that they felt that the committee did not have the authority to question the witness or subpoena certain records, I asked both people on the stand, and he frankly admitted that they realized that if it should develop that the Court was right and they were wrong in their interpretation of the law, then the defendant would have to suffer the consequences.

Frankly, I can't see anything that can be accomplished in connection with congressional investigations unless not only Mr. Brewster, and as I said a moment ago to this young man I sentenced, unless they realize that when they challenge the authority of congressional committees and they elect and take it upon themselves to fight their case

6 through the court, which they have a perfect right to do, they can raise any legal points they desire, that is their constitutional right, but I don't think they should expect that after they challenge the authority of the committee and it should be later developed that the committee had the authority to subpoena the person as a witness and ask certain questions that they should feel or counsel should feel that they should come before a court after receiving a fair trial, which I think the defendant received, and say "I will go to the Court of Appeals", which they have a right to do, "and Supreme Court", and "if we lose out then we will come before a judge and get probation"; the Court doesn't view it that way. I cannot grant probation.

MR. PICKENS: Your Honor, may I recall that Mr. LaPoma was tried and sentenced some two weeks ago before Judge Schweinhaut. The conference in Chicago was a conference of lawyers and Mr. Brewster was not present. Judge Schweinhaut was not prone to sentence other than a $1,000 fine, until he was reminded by an attorney that a 30-day sentence was mandatory by the statute. He imposed that, which he suspended.

I think Mr. Brewster's case is much stronger than Mr. LaPoma's

7 in that Mr. Brewster not only turned over all his records, as

did Mr. LaPoma, but he came here and stayed around Washington at the pleasure of the committee for one entire month.

I submit that doesn't show contemptuous conduct of the committee. I think he exercised his constitutional right. I think complete good faith is shown by the way he treated the subsequent committee. I think any obstruction that was caused before he has more than remedied by his subsequent conduct.

THE COURT: Mr. Pickens, I have considered that part, frankly. I have taken that into consideration. The penalty I am going to impose might have been more severe if that hadn't happened.

Is there anything further?

THE DEFENDANT: Can I say one thing?

THE COURT: Yes.

THE DEFENDANT: I certainly have the highest regard for the courts, the Senate investigating committees, and at no time have I ever had it in my mind and in my heart to stop the wheels of justice.

I feel very keenly that this committee did not have the authority.

8 I believe if they did they would have kept that authority. They wouldn't have split up and formed a new committee to handle the investigations that they have since that time because I know a little something about how Senators operate.

This in my opinion was probably one of the best campaign deals that they have had. I know that no Senator wanted to give up and get off that committee unless by virtue of the fact they did not have the authority. That is what I base it on; not to stop justice; not to stop an investigation.

Since that time I have appeared before two grand juries and aided and assisted and said everything that I knew to the best of my ability. It isn't a contempt. It never was thought of as that. It might have been a difference of opinion. I still feel that no Senator would have got off that committee if he could have stayed on it. The fact that they did reorganize, appoint a new committee, and I appeared before four of them--there was no chance for me ever to appear before

the old committee because it was dissolved on this certain issue. There was no chance for me to purge myself.

That is all I have to say. It isn't my motive at no time to stop any investigation or hinder them in any way.

9 THE COURT: It seems to me--I don't know--I have thought about this during the trial--a man like you, who occupies a very prominent position in labor circles, representative of the Western Conference of Teamsters--it seems to me when you receive a subpoena, whether or not the committee had the authority, you would be too happy to come to Washington and bring your records and answer questions.

I can't help it if you challenged the committee. I have a duty to perform and I have to answer to my conscience.

The sentence I am imposing, which I honestly believe should be the sentence in Criminal Case No. 289-57, is:

The Court sentences the Defendant to be incarcerated in a penal institution to be designated by the Attorney General of the United States, or his authorized representative, for a period of one year on each count of the indictment, and pay a fine--sentence on each count of the indictment to run concurrently.

I will make a ruling that he doesn't have to pay the thousand-dollar fine until after the case has--

MR. McLAUGHLIN: You didn't say the fine.

THE COURT: $1,000 fine on each count--and to pay a thousand dollar fine on each count, and each count to run concurrently. He has a sentence equivalent to a year and a thousand-dollar fine.

10 MR. PICKENS: We will appeal today.

The fine will be suspended until?

THE COURT: Until the case is settled by the highest court.

VOL.

I

No. 219

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FILED
JUL 25 1958
JOHN T. FEY, Clerk

JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

FILED 1957
Joseph W. Stewart
CLERK

No. 14,117

NUGENT La POMA,

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Volume 1 of 2 vols. Pages 1 to 252

UNITED STATES COURT OF APPEALS

For The District Of Columbia Circuit

No. 14,117

NUGENT La POMA,

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

JOINT APPENDIX

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JOINT APPENDIX

[Filed March 18, 1957]

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Impanelled on February 28, 1957, Sworn in on March 5, 1957.

UNITED STATES OF AMERICA	)	Criminal No. 290-57.
v.	)	Grand Jury Original
NUGENT LaPOMA	)	2 U.S.C. 192

The Grand Jury charges:

INTRODUCTION

The allegations of this introduction are adopted and incorporated into the Counts of this indictment which follow.

On January 19, 1957, in the District of Columbia, the Senate Permanent Subcommittee on Investigations, of the Committee on Government Operations of the United States Senate, was conducting hearings, pursuant to Public Law 601, Section 102(1) (g), 79th Congress, (60 Stat. 816), to Rule XXV(g) of the Standing Rules of the Senate, and to Senate Resolution 188, 84th Congress.

Defendant, Nugent LaPoma, Secretary-Treasurer of Local 174, International Brotherhood of Teamsters, Chauffeurs, and Warehousemen, was duly summoned as a witness by the authority of the United States Senate of the Congress of the United States, through its aforesaid Subcommittee, to appear to testify and to produce before the said Subcommittee, in Washington, D. C., on January 15, 1957, certain papers upon the matter under inquiry before that Subcommittee; that is, to produce the books and records of Local 174, International Brotherhood of Teamsters, Chauffeurs, and Warehousemen, for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank

statements, correspondence files, check stubs, memoranda and minutes of meetings.

The date for the appearance of defendant before the said Subcommittee pursuant to the above summons was subsequently postponed until January 16, 1957, and was continued to include January 19, 1957.

On January 19, 1957, defendant appeared as a witness before the said Subcommittee, holding hearings as alleged above. At that time and place:

COUNT ONE

Defendant wilfully failed and refused to produce the papers called for in the aforesaid subpoena, and thereby wilfully did make default.

COUNT TWO

Defendant unlawfully refused to answer the following question, which was pertinent to the question under inquiry: "Do you have any intention now of producing these records under this subpoena?"

The allegations of the above paragraph of this count are adopted and incorporated into Count Three which follows, which count will, in addition, merely set forth the particular question refused of answer.

COUNT THREE

"Then you know the purpose of the investigation, and, notwithstanding that knowledge, your knowledge of it, and the statement the Chair has made here in open session as to those purposes, you still refuse and decline to comply with the subpoena with respect to the producing of the records it calls for?"

COUNT FOUR

Defendant wilfully failed and refused to identify the documents comprising Subcommittee Exhibit No. 27, being documents upon the matter under inquiry before that Subcommittee, and thereby wilfully did make default.

COUNT FIVE

Defendant unlawfully refused to answer the question whether it was his signature on each of the documents comprising Subcommittee Exhibit No. 27, which question was pertinent to the question under inquiry.

/s/ Oliver Gasch
Attorney of the United States in and for the District of Columbia

A TRUE BILL:

_____
Foreman.

[Filed April 22, 1957]

MOTION TO DISMISS INDICTMENT AND TO TAKE JUDICIAL NOTICE OF CERTAIN RECORDS AND REPORTS OF CONGRESS

The defendant moves the Court to dismiss the indictment on the following grounds:

1. The indictment does not state facts sufficient to constitute an offense against the United States of America.

2. The application of Title 2 U.S.C., Sec. 192 to the defendant in this case is unconstitutional.

In connection with the consideration of the motion to dismiss, the defendant moves that the Court take Judicial Notice of (a) Hearings Before Permanent Subcommittee on Investigations of the Committee on Government Operations, U.S. Senate, 85th Cong., 1st Sess., (January 16, 1957), pp. 1-3; (b) Senate Resolution 89 and Senate Report 61 on said Resolution 89, 85th Cong., 1st Sess., (being part of the certification of failure to testify required by Title 2 U.S.C., Sec. 194); (c) Senate Resolutions 13, 14 and 74, 85th Cong., 1st Sess.; and (d) 103 Congressional Record (January 30, 1957), pps. 1136-1139; all of which are attached hereto as exhibits (a), (b), (c) and (d) respectively.

/s/ John K. Pickens
/s/ Jerry N. Griffin
Attorneys for Defendant

[Certificate of Service]

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS INDICTMENT

[Filed April 22, 1957]

[Filed May 15, 1957]

MOTION TO CONTINUE TRIAL

Defendant moves the Court for a continuance of this case for an indefinite period of at least six months on the ground that there exists in the District of Columbia, and throughout the country, so great a prejudice against the defendant, personally, and as a Secretary-Treasurer of Local 174, Teamsters Union, Seattle, Washington (of which Frank W. Brewster is President), an affiliate of (a) the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers Union, and (b) the Western Conference of Teamsters, that he cannot obtain a fair and impartial trial in the District, or elsewhere, within a lesser period of time because the mind of the public has been inflamed by current publicity concerning the defendant and other officials of the Teamsters International Union and its affiliates, as set forth in the annexed affidavits and points and authorities in support of such motion.

/s/ Jerry N. Griffin

/s/ John K. Pickens
731 Washington Building
Washington 5, D. C.
Attorneys for Defendant

Dated: May 15, 1957

MEMORANDUM OF POINTS AND AUTHORITIES

[Filed May 15, 1957]

[CERTIFICATE AS TO SERVICE]

AFFIDAVIT OF JOHN K. PICKENS IN SUPPORT OF MOTION TO CONTINUE TRIAL

[Filed May 15, 1957]

[Filed May 24, 1957]

MEMORANDUM

For reasons stated in the case of United States v. Brewster, defendant's motion to continue trial of this case will be overruled.

/s/ Bolitha J. Laws
Chief Judge

May 24, 1957

[No File Date]

MEMORANDUM

It appears to the Court that the issues in the above-entitled case, insofar as any determination of facts by the jury may be concerned, relate purely to formal matters as to which there is no substantial dispute and as to which possible prejudice of jurors will have no influence. The principal questions in the case involve law points for determination by the Court.

In this case the defendant is charged with contempt of Congress by reason of withholding testimony pertinent to a lawful Congressional inquiry. Such withholding of testimony may seriously hinder and delay the passage of legislation by Congress. For this reason it is of importance that the charge of contempt be decided promptly, especially if defendant will not suffer prejudice.

Defendant's motion to continue trial of this case on the ground that jurors may be influenced to defendant's prejudice by unfavorable press, television and radio comment will be overruled.

/s/ Bolitha J. Laws
Chief Judge

May 24, 1957

[Filed July 31, 1957]

NOTICE OF APPEAL

Defendant's name is Nugent LaPoma and his address is 552 Denny Way, Seattle, Washington.

The name of appellant's attorneys are John K. Pickens and Jerry N. Griffin and their address is 731 Washington Building, Washington 5, D. C.

Defendant was charged with contempt of Congress (2 U. S. C. 192).

Defendant was found guilty as charged in the indictment and sentenced on July 31, 1957 to a fine of One Thousand Dollars ($1,000) and Thirty Days (30) imprisonment, said sentence of Thirty Days (30) imprisonment having been suspended by the trial judge for all purposes and defendant was continued on the same bail, namely, One Thousand Dollars ($1,000), pending this appeal.

I, Nugent LaPoma, the above-named appellant, hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from the above-stated judgment.

/s/ Nugent LaPoma, Appellant

Dated July 31, 1957

/s/ John K. Pickens
Attorney for Appellant

[Filed August 21, 1957] DEFENDANT'S EXHIBIT NO. 1

79th Congress - 2d Session Report No. 1011

ORGANIZATION OF THE CONGRESS

REPORT

of the

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Pursuant To

H. CON. RES. 18

March 4, 1946

* * * * *

3. Jurisdiction of Committees

Recommendation: That House and Senate rules be amended to define clearly the jurisdiction of each reorganized committee so as to avoid overlapping and duplication and conflicts of jurisdiction.

Reorganization of the committees as recommended above, will require a revision of the rules of the two Houses so as clearly to define the jurisdiction of the new standing committees. It is recommended that, as this is done, the jurisdiction of each reorganized committee be clearly defined so that overlapping and duplication will be eliminated. The definitions should enumerate the activities covered and describe their scope in terms of subject matter of legislation as well as the administrative organization of the Federal Government so that disputes over

jurisdiction will be minimized or eliminated

The major objective or predominant character of a bill in the opinion of the presiding officers of the Senate and the House, should be controlling in determining the reference of bills to committees. We recommend the exercise of more care in the reference of Senate bills. A bill should be referred without regard to the author's service on any particular committee seeking jurisdiction when its subject matter does not normally lie in the defined province of that committee.

In redefining the jurisdiction of committees, great care should be taken clearly to resolve existing conflicts by specifying which committee shall have jurisdiction

4. Legislative Oversight by Standing Committees

Recommendation: That the standing committees of both Houses be directed and empowered to carry on continuing review and oversight of legislation and agencies within their jurisdiction; that the power of subpena be given them; and that the practice of creating special investigating committees be abandoned.

One of the most difficult problems studied by your committee was that of improving the relationship between Congress and the executive departments of Government. This was ordered in the joint resolution under which we have been operating and appears to your committee to be one of the important phases of our study.

While the Constitution directed the separation of powers between the executive and legislative branches, it did not intend them to go separate ways and in opposite directions. Each year the gulf between Capitol Hill and the departments widens. And without effective legislative oversight of the activities of the vast executive branch, the line of democracy wears thin. Only 1 man out of the 3,000,000 Federal employees is elected by and is responsible directly to the people.

Composed of the directly elected representatives of the people, Congress needs to improve its lines of communication, its relationships, its understanding of the departments. At present there is no regular machinery of cooperation between them, aside from inadequate informal conversations or correspondence or a full-dress investigation, by which the common problems of governmental policy can be surveyed.

Vast powers are often necessarily delegated to governmental agencies. Sometimes the laws are not clear or specific and sometimes a problem defies specific legal description and adequate limitation. A clear and continuing understanding of the objectives and methods of the departments should be achieved.

We feel that this oversight problem can be handled best by directing the regular standing committees of the Senate and House, which have such matters in their jurisdiction, to conduct a continuous review of the agencies administering laws, originally reported by the committees. Frequent consultation with and reporting to the committees would greatly improve relationships between the executive and legislative branches.

Such review might well include a question period by the committee arranged with the help of a greatly improved committee staff. By this method an open channel of complaints of agency shortcomings or abuses of authority could be maintained so as to furnish all Members of Congress with a clearinghouse for bringing complaints to the attention of administrators through the proper legislative committees.

Directing the regular standing committees to carry on this supervisory function appeals to your committee as a better method when the appointment of numerous select investigating committees when situations have grown so difficult as to arouse public demand for correction or special study. We recommend that the practice of creating special committees of investigation be abandoned.

Each of the reorganized standing committees should be given the power of subpena and should be authorized to undertake studies of matters within its jurisdiction either by full or subcommittee action. By directing its standing committees to perform this oversight function, Congress can help to overcome the unfortunate cleavage between the personnel of the legislative and the executive branches.

[Filed August 21, 1957]

DEFENDANT'S EXHIBIT NO. 2

79th Congress - 2d Session

Report No. 1400

LEGISLATIVE REORGANIZATION ACT OF 1946

May 31 (legislative day, March 5), 1946-Ordered to be printed

---

Mr. La Follette, from the Special Committee on the Organization of Congress, submitted the following

REPORT

* * * * * *

To remedy this crazy-quilt pattern, S. 2177 would replace our jerrybuilt committee structure with a simplified system of standing committees corresponding with the major areas of public policy and administration and having authority to hold joint hearings with the parallel committees of the House of Representatives on matters of common interest. (See chart.) The correlation of the committee systems of the two Chambers with each other would facilitate joint action on specific measures by means of joint hearings. It would also increase the efficiency of the committee structure, facilitate closer liaison between the two Houses, and economize the time of busy legislators and administrators alike. And the coordination of the congressional committee system with the pattern of the administrative branch of the National Government would improve the performance by Congress of its legislative and supervisory functions, provide direct channels of communication and cooperation between the two branches, promote more harmonious and unified action in the development of public policies, and go a long way to bridge the gap between the legislative and executive branches of the Government.

Consolidation of Senate standing committees

Existing Committees	Reorganized Committees
1. Agriculture and Forestry	1. Agriculture and Forestry.
2. Appropriations	2. Appropriations.
3. Military Affairs) 4. Naval Affairs)	3. Armed Services.
5. Banking and Currency	4. Banking and Currency.
6. Civil Service) 7. Post Offices and Post Roads)	5. Civil Service.
8. District of Columbia	6. District of Columbia.
9. Expenditures in the Executive Departments.	7. Expenditures in Executive Departments.
10. Finance	8. Finance.
11. Foreign Relations	9. Foreign Relations.
12. Interstate Commerce) 13. Commerce) 14. Interoceanic Canals)	10. Interstate and Foreign Commerce.
15. Manufactures) 16. Judiciary) 17. Patents) 18. Immigration)	11. Judiciary.
19. Education and Labor	12. Labor and Public Welfare.
20. Public Lands and Surveys) 21. Mines and Mining) 22. Territories and Insular Affairs) 23. Irrigation and Reclamation) 24. Indian Affairs)	13. Public Lands.
25. Public Buildings and Grounds	14. Public Works.
26. Rules) 27. Audit and Control) 28. Library) 29. Privileges and Elections) 30. Printing) 31. Enrolled Bills)	15. Rules and Administration.
32. Pensions 33. Claims	16. Veterans' Affairs. (Abolished.)

* * * * * *

S. 2177 would also define the jurisdiction of each reorganized committee so as to avoid jurisdictional disputes between them. It would expand the present meager staff facilities of our standing committees, which are the real workshops of Congress; permit each committee to appoint four experts in its field; and strengthen the legislative reference and bill-drafting services which are our own unbiased research and legal arms. * * * *

* * * * * *

Oversight of administrative performance

A third group of provisions in the bill is designed to strengthen congressional surveillance of the execution of the laws by the executive branch. Congress has long lacked adequate facilities for the continuous inspection and review of administrative performance. We often delegate the rule-making power to administrative departments and commissions, without making any provision for follow-up to see if administrative rules and regulations are in accord with the intent of the law. Several of the postwar acts, for example, require certain agencies to submit quarterly reports to Congress, but assign the responsibility for scrutinizing these reports to no legislative committees.

To remedy this situation, S. 2177 would authorize the standing committees of both Houses to exercise continuous surveillance of the execution of the laws by the administrative agencies within their jurisdiction. Armed with the power of subpena and staffed with qualified specialists in their respective provinces of public affairs, these committees would conduct a continuous review of the activities of the agencies administering laws originally reported by the legislative committees. The reconstructed standing committees will, it is hoped, roughly parallel the reorganized administrative structure of the executive branch of the Government and will be utilized as vehicles of consultation and collaboration between Congress and the corresponding administrative agencies within their respective jurisdictions.

Under this arrangement, it will no longer be necessary to create special committees of investigation from time to time. Sporadic investigations of the conduct of public affairs in the past have often served a salutary purpose by exposing administrative incompetence or corruption and by improving the execution of the laws. But they have lacked continuity and have not provided the members of standing committees with direct knowledge of the information they have gathered. In cases where legislative action is indicated, standing committees find it necessary to do much of the work over again. S. 2177 proposes, therefore, to ban the use of special committees hereafter.

As a further check upon the financial operations of the Government and its care in handling public funds, the bill authorizes and directs the Comptroller General to make administrative management analyses of each agency in the executive branch, including Government corporations. Such analyses, with those made by the Bureau of the Budget, will furnish Congress a double check upon the economy and efficiency of administrative management. Reports on such analyses would be submitted by the Comptroller General to the Expenditures, Appropriations, and appropriate legislative committees, and to the majority and minority policy committees, of the two Houses.

* * * * * *

DEFENDANT'S EXHIBIT NO. 3

[Filed August 21, 1957]

84th CONGRESS
2d Session S. RES. 304

IN THE SENATE OF THE UNITED STATES

July 5 (legislative day, July 3), 1956

Mr. Ives submitted the following resolution; which was referred to the Committee on Labor and Public Welfare

---

RESOLUTION

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized and directed to make a comprehensive study and investigation of the penetration of criminal elements into, and their influence on, organized labor in the United States, for the purpose of ascertaining whether legislation is necessary for the protection of labor organizations, employees, employers, and the general public. The committee shall report its findings, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date.

SEC. 2. For the purposes of this resolution, the commitee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed $250,000 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

[Filed August 21, 1957] DEFENDANT'S EXHIBIT NO. 4

CONGRESSIONAL RECORD,
85TH CONGRESS, FIRST SESSION

Washington, Monday, January 7, 1957

* * * * * *

[Page 263]

INVESTIGATION OF LABOR RACKETEERING

Mr. IVES. Mr. President, in keeping with a statement which I made late in the last session of the Congress, I am resubmitting today a resolution providing for an investigation of labor racketeering by the Senate Committee on Labor and Public Welfare, or by a subcommittee thereof.

I recognize that, since the submission of the similar resolution last July 5, the Senate Permanent Subcommittee on Investigations has done much preliminary work in this field. The staff of that subcommittee has produced a considerable amount of material which will be of great value in any overall investigation which is authorized by the Senate.

Despite this valuable activity by the Senate Permanent Subcommittee on Investigations, I feel strongly that the entire subject of racketeering in organized labor lies squarely within the jurisdiction of the Committee on Labor and Public Welfare. Labor racketeering affects the whole field of labor-management relations; it also affects directly the public welfare, which is endangered so long as racketeering exists.

It is in line with this thinking that I am submitting again a resolution which would give to the Committee on Labor and Public Welfare the funds necessary to carry out an investigation of labor racketeering.

I find it difficult to express how strongly I feel the necessity for such an investigation. Racketeers intimidate honest workers and pervert the purpose of the labor movement. They add incalculably to the cost of doing business, and thereby to the price paid by consumers. They flout their government and make a mockery of its duty to preserve law and order.

In my opinion, only the Congress has the power to deal with this nationwide problem in the vigorous and comprehensive manner required. Undoubtedly the investigation which I have proposed would lead in time to recommendations from the Labor and Public Welfare Committee for strengthening the Federal law regarding racketeering. I am certain that the law needs strengthening.

It is regrettable, but true, that an investigation of this nature will have difficulty in avoiding charges that it is baiting labor or bringing politics into labor-management relations. We are dealing here, however, with a subject which is far too serious to permit any maneuvering for political advantage or any attempt to persecute labor.

I made a promise when I submitted the similar resolution last year, and I should like to renew it now. As a member of the Committee on Labor and Public Welfare, I shall do all that is within my power to make certain that this investigation, if it is authorized, shall be conducted without partisanship and with scrupulous fairness to labor organizations, employers and other interested parties.

Mr. President, on behalf of myself and the Senator from Connecticut [Mr. PURTELL], I submit the resolution for appropriate reference.

[Page 264]

The resolution (S. Res. 13) providing for an investigation of labor racketeering by the Senate Committee on Labor and Public Welfare, or by a subcommittee thereof, submitted by Mr. IVES, for himself and Mr. PURTELL, was ordered to lie on the table, as follows:

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized and directed to make a comprehensive study and investigation of the penetration of criminal elements into, and their influence on, organized labor in the United States, for the purpose of ascertaining whether legislation is necessary for the protection of labor organizations, employees, employers, and the general public. The committee shall report its findings, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date.

SEC. 2. For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed $250,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee.

[Filed August 21, 1957] DEFENDANT'S EXHIBIT NO. 5

CONGRESSIONAL RECORD, 85TH CONGRESS,
FIRST SESSION

Washington, Monday, January 7, 1957

[Page 264]

INFILTRATION OF CRIMINALS, ETC., INTO THE FIELD OF ORGANIZED LABOR

Mr. McCLELLAN. Mr. President, I am submitting a resolution providing funds and authority to conduct an urgently needed investigation of such magnitude that it requires additional funds beyond those ordinarily needed for the general functions of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations.

This investigation involves the infiltration of criminals and hoodlums and dishonest elements into the field of organized labor. May I say at the outset, it is not the intention of my committee or its subcommittee to infringe on the authority or jurisdiction of the Committee on Labor and Public Welfare, nor is it the intention of the committee to interfere with legitimate union activities. We seek only to help legitimate unions to function without the interference and influence of criminals and hoodlums.

Although our investigation may touch on some aspects of labor law, it concerns itself primarily and to a larger degree with such matters as Government procurement, Government operations, violations of our tax laws, interference with interstate commerce, and violations of criminal laws, and the failure to file the full and complete financial records under Public Law 101, 80th Congress.

We do not intend to examine into labor matters such as wages and hours regulations, regulations affecting labor disputes, or other purely labor functions.

The jurisdiction of the Committee on Government Operations, as its name implies, involves an examination into the operation of all branches of the Government. I wish to point out that the scope of this investigation is broader than merely matters pertaining to the Department of Labor.

Without seeking to disparage any other committee, I feel that the Senate Permanent Subcommittee on Investigations, by reason of the long experience and efficiency of its staff, is the best equipped to conduct this type of investigation.

For the past 4 months, a majority of the staff of the subcommittee has been engaged in a preliminary investigation in New York City, Chicago, Seattle, Portland, Los Angeles, Minneapolis, Philadelphia, and other areas, and has uncovered specific evidences of collusion between dishonest employers and union officials, extortions, the use of violence by certain segments of labor leadership, the diversion and misuse of labor union funds by high-ranking dishonest union officials for their own profit and gain, and large-scale frauds in income taxes.

Furthermore, for the past 2 years, this committee has been studying Army procurement matters which involve collusion between dishonest contractors and criminals who have managed to seize control of certain unions.

The Senate Permanent Subcommittee on Investigations as early as last May 17 and May 29 held executive hearings and brought before it such well-known criminals as the notorious John Dioguardia, alias Johnny Dio; his brother, Tommy Dioguardia; Albert Anastasia, notorious as one of the gunmen of Murder, Inc., and reputed to be involved in a large number of unsolved murders; Harry Stromberg, Joseph Profaci, and James Plumeri, all well-known underworld characters who were either directly or indirectly connected with the pattern of underworld control of unions and the dishonest contracting firms acting in collusion with labor fronts.

The investigation into these hoodlum activities has broadened into a nationwide investigation into similar racketeer controls over unions, whose activities, if left unexposed and unchecked, will have an impact not only on Government procurement, but may seriously impair the efficiency, economy, and the operation of Government.

In one instance we have evidence indicating that dishonest teamster officers sought to use their union power to take over the control of

the municipal government for the purpose of controlling vice, including gambling and prostitution.

In this connection, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks, a letter which I received from the city council of Portland, Oreg., formally requesting that my committee investigate this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

City of Portland, Oreg.,
December 21, 1956.

Hon. John L. McClellan,
Chairman, Investigations Subcommittee of Governmental Operations Committee, Senate Office Building,
Washington, D. C.

Dear Senator McClellan: As auditor of the city of Portland, Oreg., I have been directed by the city council, the governing body of the city of Portland, to extend to your investigations subcommittee an invitation to hold, here in Portland, your current investigations concerning activities of the International Brotherhood of Teamsters and vice conditions in the Pacific Northwest. The council of the city of Portland approved this invitation as a result of discussion concerning newspaper reports of possible delays to the committee in examining records and reports, and approved the view that: An investigation hearing held in Portland, Oreg., would minimize delays to the committee; would permit city and State officials to testify as the committee may desire and supply their records to the committee as it may request, with greater facility; and, would afford to the 13,000 members of the teamsters' union in the greater Portland area, a wider knowledge of organization operations.

I am further directed by the city council to assure you and the committee that, if the committee so desires, it may have the use of the city council chambers with recording equipment for use of the committee, and that the city of Portland will make available to the committee the facilities of the Bureau of police of the city of Portland, insofar as the committee may desire to use such facilities, and will offer the full cooperation of the city of Portland.

Yours respectfully,
WILL GIPSON,
Auditor of the City of Portland

* * * * * *

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* * * * * *

Mr. McCLELLAN. I quote from this article very briefly:

The greatest racket inroads have been made in trucking, waterfront activities, and in a multiplicity of service, construction, distributive and manufacturing trades. No one has any real idea of the annual "take." * * *

* * * the high command of the AFL-CIO is becoming increasingly convinced that there is an interlocking directorate of crime operating within labor. Crooks in west coast unions are on remarkably intimate terms with those on the east coast.

Not the least important is that this committee has been engaged for many years in investigating frauds and other illegal practices which have been perpetrated on the Government in its procurement and building programs.

The Government is about to embark on a vast, long-range road building program which will entail the expenditure of hundreds of millions of dollars.

Too often in the past we investigated the mulcting of Government after the fact. Now we propose to take preventive measures to eliminate those criminal elements which are preying upon the Government by using apparently legitimate labor unions as fronts, or work in collusion with dishonest management to defraud the Government on its procurement and construction programs.

This investigation in this field, conducted properly and thoroughly, will prevent losses to our Government far exceeding the costs of such investigation.

I will have more to say on this subject at a later time.

At an early date I will also offer a separate resolution for the funds to continue the other functions of the subcommittee.

The PRESIDENT pro tempore. The resolution will be received and appropriately referred. The question of committee jurisdiction will be taken under consideration.

The resolution (S. Res. 14), submitted by Mr. McCLELLAN, was ordered to lie on the table.

* * * * * *

85th Congress
1st Session

S. RES. 14

IN THE SENATE OF THE UNITED STATES

January 7 (legislative day, January 3), 1957

Mr. McCLELLAN submitted the following resolution; which was ordered to lie on the table and to be printed.

RESOLUTION

Whereas the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, in the course of investigations into Government procurement practices of the Defense Department, has found evidence of racketeering and collusion between certain labor officials and employers which may seriously affect and impair proper Government procurement; and

Whereas a preliminary staff investigation of such subcommittee with respect to the general field of improper activities of certain segments of labor union leadership and collusive practices of such leadership with management has disclosed conditions requiring a thorough investigation and exposure of the facts to determine whether further legislation should be recommended; and

Whereas the United States Government spends billions of dollars on procurement of goods and services every year, and hundreds of millions of dollars in the construction of public works; and

Whereas the United States Government is about to embark on a vast roadbuilding program which will involve the expenditure of many billions of dollars; and

Whereas the free flow of goods in interstate commerce is necessary for the efficient and economic administration of Government; and

Whereas the continuance of any such improper, illegal, and racketeering activities by certain union officials, in collusion with management or otherwise, may result in an enormous loss to the United States Government; and

Whereas evidence tending to show (1) the infiltration by criminal elements into the field of organized labor, (2) the use of violence, shakedowns, blackmail, bribery, embezzlement, extortion, by certain segments of union leadership, by collusion with management or otherwise, (3) the existence of other forms of corruption, violation, evasion of laws of the United States on the part of corrupt union officials, (4) that union funds are being misused and misappropriated for the personal benefit of certain union officials and true and accurate financial statements are, therefore, not being filed with the Labor Department as required by Public Law 101, Eightieth Congress, first session, chapter 120, 9 (f) and (g), (5), the failure on the part of any agency of the Government to enforce existing laws and regulations; should be thoroughly investigated. Now, therefore, be it

Resolved, That the Committee on Government Operations, or any duly authorized subcommittee thereof, is authorized, under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in the exercise of its jurisdiction under rule XXV of the Standing Rules of the Senate to study the operation of Government activities at all levels with a view to determining its economy and efficiency, to examine, investigate, and to study the impact of labor irregularities on Government operations, and to determine and make a complete study of --

(1) whether there exist any infiltration of persons engaged in pursuing criminal practices and activities in the field of organized labor or any other corrupt, collusive, or illegal practices such as racketeering, extortion, and blackmail,

and improper practices which are against the public interest or against the interest of labor organizations or their membership;

(2) whether any such practices have occurred or resulted in violation of, or may occur or result in evasion or impairment of, any statutes of the United States, or violate the civil rights and liberties of individual members of organized labor or other persons;

(3) whether such statutes have been properly, efficiently, and vigorously enforced and administered by officers and agencies of the United States charged with responsibility for their enforcement and administration; and

(4) whether existing laws of the United States are adequate to protect the public interest and the interest of labor organizations and their membership against the occurrence of such practices.

SEC. 2. For the purpose of this resolution the committee, until January 31, 1958, is authorized to (1) make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for such legislation, as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1958.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $250,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee.

[Filed August 21, 1957] DEFENDANT'S EXHIBIT NO. 6

85th Congress
1st Session

S. RES. 13

IN THE SENATE OF THE UNITED STATES

January 7 (legislative day, January 3), 1957

Mr. IVES (for himself and Mr. PURTELL) submitted the following resolution; which was ordered to lie on the table and to be printed

---

RESOLUTION

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized and directed to make a comprehensive study and investigation of the penetration of criminal elements into, and their influence on, organized labor in the United States, for the purpose of ascertaining whether legislation is necessary for the protection of labor organizations, employees, employers, and the general public. The committee shall report its findings, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date.

SEC. 2. For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed $250,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

[Filed August 21, 1957 DEFENDANT'S EXHIBIT NO. 11

INSPECTION OF INCOME, ETC.

No. 10606

May 5, 1955, 20 F. R. 3017

INSPECTION OF INCOME, EXCESS-PROFITS, DECLARED-VALUE EXCESS-PROFITS, CAPITAL-STOCK, ESTATE, AND GIFT TAX RETURNS BY THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

By virtue of the authority vested in me by sections 55 (a), 508, 603, 729(a), and 1204 of the Internal Revenue Code of 1939 (53 Stat. 29, 111, 171; 54 Stat. 989, 1008; 55 Stat. 722; 26 U.S.C. 55(a), 508, 603, 729(a), and 1204), 61 and by section 6103(a) of the Internal Revenue Code of 1954 (68 A Stat. 753; 26 U.S.C. 6103(a), 62 it is hereby ordered that any income, excess-profits, declared-value excess-profits, capital-stock, estate, or gift tax return for the years 1945 to 1954, inclusive, shall, during the Eighty-fourth Congress, be open to inspection by the Senate Committee on Government Operations, or any duly authorized subcommittee thereof, in connection with its studies of the operation of Government activities at all levels with a view to determining the economy and efficiency of the Government, such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the two Treasury decisions, relating to the inspection of returns by committees of the Congress, approved by me this date.

This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

THE WHITE HOUSE
May 3, 1955.

DWIGHT D. EISENHOWER

DEFENDANT'S EXHIBIT NO. 12

SUBCHAPTER B. -MISCELLANEOUS PROVISIONS

SECTION 6103 - PUBLICITY OF RETURNS AND LISTS OF TAXPAYERS

26 CFR 301.6103(a)-101; Inspection of returns by committees of Congress other than those enumerated in section 6103(d) of the Internal Revenue Code of 1954. T.D. 6132.

TITLE 26 - INTERNAL REVENUE, 1954, -CHAPTER I, SUBCHAPTER F, PART 301. -PROCEDURE AND ADMINISTRATION

Inspection of certain returns by committees of Congress other than those enumerated in section 6103(d) of the Internal Revenue Code of 1954.

TREASURY DEPARTMENT,
Washington 25, D. C.

To Officers and Employees of the Internal Revenue Service and Others Concerned:

SEC. 301.6103(a)-101. INSPECTION OF RETURNS BY COMMITTEES OF CONGRESS OTHER THAN THOSE ENUMERATED IN SECTION 6103(d) OF THE INTERNAL REVENUE CODE OF 1954. -(a)(1) Pursuant to the provisions of section 6103(a) of the Internal Revenue Code of 1954 (68 A Stat. 753; 26 U.S.C. 6103(a)), any return with respect to income, estate, or gift tax imposed by the Internal Revenue Code of 1954 shall be open to inspection by any committee of the Congress, or any subcommittee of a committee of the Congress, specially authorized to inspect such returns by an Executive order issued under the aforementioned statutory provisions on or after the date of the approval of this Treasury Decision. Such inspection shall be subject to the conditions and restrictions imposed by the Executive order and the rules and regulations hereinafter prescribed.

(2) Only such of the aforementioned returns as are specified in a resolution adopted by the committee in accordance with the rules of the appropriate house of the Congress then applicable to the reporting of a measure or recommendation from such committee shall be open to inspection. Such resolution shall set forth the names and addresses of the taxpayers whose returns it is necessary to inspect and the taxable periods covered by the returns. The inspection of returns authorized in this section may be made by the committee of the Congress, or the subcommittee of a committee of the Congress, authorized as provided in subparagraph (1) of this paragraph, acting directly as a committee or as a subcommittee, or by or through such examiners or agents as such committee or subcommittee may designate or appoint in its written request hereinafter mentioned. Upon written request by the chairman of such committee or of such subcommittee to the Secretary of the Treasury, giving the names and addresses of the taxpayers whose returns it is

desired to inspect and the taxable periods covered by the returns and stating that the resolution hereinbefore mentioned with respect to the inspection of such returns has been duly adopted by such committee or by the committee under which such subcommittee functions, the Secretary or any officer or employee of the Department of the Treasury, with the approval of the Secretary, shall furnish such committee or subcommittee with any data relating to or contained in any such return or shall make such return available for inspection by such committee or subcommittee or by the examiners or agents designated or appointed by such committee or subcommittee. Such data shall be furnished, or such return shall be made available for inspection, in an office of the Internal Revenue Service. Any information thus obtained by such committee or subcommittee shall be held confidential: Provided, however, That any portion thereof relevant or pertinent to the purpose of the investigation may be submitted by the investigating committee to the appropriate house of the Congress.

(3) This section shall not be applicable to any committee authorized by section 6103(d) of the Internal Revenue Code of 1954 to inspect returns.

(b) Because this Treasury Decision constitutes a general statement of policy and establishes a rule of Departmental practice and procedure, it is found that it is unnecessary to issue this Treasury Decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(c) This Treasury Decision shall be effective upon its filing for publication in the Federal Register.

G. M. HUMPHREY,
Secretary of the Treasury.

Approved: May 3, 1955.

DWIGHT D. EISENHOWER,

THE WHITE HOUSE

(Filed with the Division of the Federal Register May 3, 1955, 5:02 p. m.)

DEFENDANT'S EX. NO. 13

[Filed August 21, 1957]

November 6, 1956

Honorable James P. Mitchell
Secretary of Labor
Department of Labor
Washington 25, D. C.

Attention: Mr. Stuart Rothman, Solicitor

Dear Sir:

In a matter now under investigation by this Subcommittee, it is requested that the registration certificates filed under Public Law 101, 80th Congress, Section 9, Sub F(2), showing the names and titles of the principal officers of union locals, be made available for examination to staff members of this Subcommittee on the following listed union locals, as well as such others as may be requested by staff members from time to time:

United Automobile Workers, AFL

Local 227
Local 649
Local 224
Local 228
Local 995
Local 239
Local 496 - International Chemical Workers Union, 152 E. 23rd Street, New York City.
Local 5

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers

Local 284 - Warehouse and Processing, Greater New York Area, 24 E. 23rd St., New York City

Local 269 - Warehouse and Processing, Greater New York Area, 135-23 Northern Blvd., Flushing, New York

Local 258 - Warehouse and Processing, Greater New York Area, 29-28 41st Ave., Long Island City, New York

Local 362 - Warehouse and Processing, Greater New York Area, 29-28 41st Ave., Long Island City, New York

Local 651 - Warehouse and Processing, Greater New York Area, 119 W. Columbia St., Hempstead, Long Island, New York

Local 275 - Warehouse and Processing, Greater New York Area, 45-02 23rd St., Long Island City, New York

Local 295 - Air Freight Chauffeurs, Handlers, Warehousemen and Allied Workers, Greater New York Area, 215 E. 149th St., New York City

Local 424 - Packing of Grain, Fertilizer and Processors of Allied Food Industries, Nassau and Suffolk Counties of Long Island, 32 Livingston St., Huntington Station, Long Island, New York

Local 445 - Chauffeurs, Teamsters and Helpers, Westchester County, 2 Post St., Yonkers, New York

Local 805 - Confectionery and Tobacco Drivers and Warehousemen, 1780 Broadway, New York City

Local 813 - Private Sanitation, New York and Vicinity, 147 4th Ave., New York City

Local 27 - Paper Products and Miscellaneous Drivers, Warehousemen and Helpers, 147 4th Ave., New York City

Local 816 - Express, Meat, Liquor and Commissary Chauffeurs and Helpers, 364 W. 34th St., New York City

Local 282 - Building Material Teamsters, 265 W. 14th St., New York City

Local 560 - Chauffeurs, Teamsters, Warehousemen and Helpers. 69 Jefferson St., Hoboken, New Jersey.

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Local 5 - Amalgamated Union, 577 9th Ave., New York City

Local 139 - Doll & Toy Workers International Union, AFL, 225 Lafayette St., New York City

Local 1115E- Retail Clerks, 137 W. 42nd St., New York City.

Your cooperation in this matter will be greatly appreciated.

Sincerely yours,

John L. McClellan
Chairman

JSA:amn

[Filed Aug. 21, 1957] DEFENDANT'S EXHIBIT NO. 14

MEMORANDUM

November 8, 1956

TO: Robert F. Kennedy

FROM: Jerome S. Adlerman

SUBJECT: Racketeering in Unions: Union Registration Forms, Department of Labor.

In compliance with a request made to Secretary of Labor, James P. Mitchell, the files of the Department of Labor, containing the Union Registration Forms, were made available for review by this Subcommittee. A review was made this date and the following pertinent information was taken from the most recent registration forms on file.

United Automobile Workers, AFL, CIO Registration: 1-27-56
Local 227
24 East 23rd Street
New York, New York

Principal Officers:

Arthur Santa Maria	Sec.-Treas.	$6,300 per year
Harry Reiss	President	No compensation
Dominick Santa Maria	Trustee	No compensation

No officers or agents were listed as having received compensation in excess of $5,000.00.

Fees:

Initiation Fees - $25.00 Monthly Dues - $4.00

Financial Report:

Dated 1-26-56, signed by Fred Virgilio
Alfred Petrozza
Dominick Santa Maria

(Financial Report listed $2,200.00 loan made to Local 496, ICWU, now Local 227, UAW, to be repaid to the Welfare Trust Fund at 4% interest)

United Automobile Workers, AFL, CIO Registration: 7-12-56
Amalgamated Union, Local 649
1780 Broadway
New York 19, New York

Principal Officers:

Joseph Curcio	President	$3,900 (3 mos.)
Harry Davidoff	Sec.-Treas.	975.00 "
William Barrett	Vice Pres.	No compensation

Other Officers:

George Baker	Trustee	$2,600.00 (3 mos.)
Abraham Brier	Trustee	3,055.00 "
Sidney Hodes	Sergeant at Arms	3,640.00 "
Samuel Rosenkrantz	Guide	3,250.00 "

Fees:

Initiation Fees - $5.00 to $25.00 Monthly Dues - $3.00 to $4.00

Financial Report:

Dated 7-9-56, signed by Joseph Curcio, President.

United Automobile Workers, AFL, CIO Registration: 10-19-56
Amalgamated Union Local 224
Allied Industrial Workers of America
300 Wyckoff Avenue
Brooklyn, New York

Principal Officers:

Frank Easton	President	$5,200.00 per year
Stanley Seglin	Sec.-Treas	5,200.00 "

(No further information noted - Financial Report to be submitted within 90 days)

United Automobile Workers, AFL Registration: 6-10-54
Local 228
119 West Columbia Street
Hempstead Long Island, New York

Principal Officers:

George Doyle	President	$5,200.00 per year

Sidney Hodes	Sec.-Treas	No compensation
Paul Newman	Recording Secy.	No compensation

Initiation Fees: $25.00 Monthly Dues - $3.00

Financial Report:

Blank financial report signed by Sidney Hodes, Financial Secretary and Treasurer, on 6-8-54.

In the same folder at the Department of Labor, the following Registration was found:

Coin Machine Employees Union
Local 228, AFL
10 Park Avenue
Mt. Vernon, New York

Principal Officers:

Sam Weiss	President	$6,250.00 per year
Sam Getlan	Sec.-Treas.	8,840.00 per year
Canio Trotta	Recording Secy.	No compensation

Fees:

Initiation Fee - $25.00 Monthly Dues - $5.00

Financial Report:

Signed 9-8-55 by Sam Getlan, Secretary - Treasurer.

(There appeared to be no connection is these two registration forms, officers, handwriting, names, etc. to the writer. The woman in charge of the files stated tney were one and the same and they are being maintained as such but the writer thinks they are two separate unions)

United Automobile Workers, AFL Registration: 8-11-55
Local 995
49 West 32nd Street, New York 1, New York

Principal Officers:

Sam Goldstein	President	$8,330.00 per year
Philip Goldberg	Business Mgr	3,188.00 per year
Irving Leff	Guide	1,930.75 per year

Financial Report:

Dated 8-9-55 by Sam Goldstein, President.

United Automobile Workers — Registration: 1-27-56
Anderson Bolling Manufacturing Company
Local 239
532 Lake Avenue
Grand Haven, Michigan

Principal Officers:

Edward Tokarczyk	President	No compensation
Ernest Gallagher	Recording Sec.	No compensation
Elmer Reenders	Sec.-Treas.	$237.00

Financial Report:

Dated 1-9-56, signed by Elmer Reenders, Financial Secretary

International Chemical Workers Union, AFL — Registration: 9-4-53
Local 496
24 East 23rd Street
New York 10, New York

Principal Officers:

Harry Reiss	President	$1,105.00 per year
A. Santa Maria	Sec. Treas.	1,105.00 per year
Max Chester	Vice Pres.	No compensation

Fees:

Initiation Fees - $15.00 Monthly Dues - $3.00

Financial Report:

Signed by Arthur Santa Maria, dated 9-3-53

Amalgamated Meat Cutters & Butcher Workmen of North America
Packing House Workers Union, AFL
Local 5
New York 3, New York — Registration: 10-6-56

Principal Officers:

William Turner	President	$7,200.00 per year
Anthony T. Lester	Fin. Secy.	7,720.00 per year
Emil Lohner	Treasurer	No compensation

Financial Report:

Signed by Anthony T. Lester, Financial Secretary, 10-4-55.

International Brotherhood of Teamsters — Registration: 9-19-56
Chauffeurs, Warehousemen and Helpers
Warehouse and Processing Workers
Local 284
24 East 23rd Street
New York 10, New York

No officers listed - No employees with salaries over $5,000 listed.

Fees:

Initiation Fee - $25.00 Monthly Dues - $4.00

Financial Report:

Blank Financial Report signed by Harry Reiss as Secretary - Treasury. Department of Labor has it listed as Harry Reun. Report signed 9-19-56 with the note "New Union" on top of the blank financial report.

International Brotherhood of Teamsters. — Registration: 3-6-56
Chauffeurs, Warehousemen and Helpers
AFL, CIO
Warehouse and Processing
Local 269
299 Proadway
Monticello, New York

Principal Officers:

Philip Kazansky	Sec. Treas. (Acting)	No compensation

Fees:

Initiation Fee - $50.00 Monthly dues - $4.00

Notation "Charter newly issued. No present financial data."
Signed Philip Kazansky, Secretary-Treasurer, 3-2-56.

(Attorney who prepared form, Arnold Cohen)

International Brotherhood of Teamsters, Chauffeurs,
Warehousemen and Helpers Registration: 1-18-56
Warehouse and Processing Local 258
10 Park Avenue
Mt. Vernon, New York

Principal Officers:

Harry Davidoff Sec.-Treas. (Acting) No compensation

Fees:

Initiation Fee $50.00 Monthly dues $4.00

Note: "Charter issued 11-7-55. No present financial data."
Signed Harry Davidoff, Secretary-Treasurer 1-17-56

(Attorney - Arnold Cohen)

International Brotherhood of Teamsters, Chauffeurs
Warehousemen and Helpers Registration: 3-29-56
Warehouse and Processing Local 362
28-11 27th Street
Long Island City, New York

Principal Officers:

Anthony Legouri President (Acting) No compensation
Abraham Brier Secy-Treas. (Acting) "

Fees:

Initiation Fee $50.00 Monthly Dues $4.00

Note: "Charter newly issued. No present financial data."
Signed Abraham Brier, Secretary-Treasurer, 2-28-56.

(Attorney: Arnold Cohen)

International Brotherhood of Teamsters, Chauffeurs
Warehousemen and Helpers, AFL, CIO Registration: 3-6-56
Warehouse and Processing Local 651
119 West Columbia Street
West Hempstead, New York

Principal Officers:

Nathan Gordon Sec.-Treas. No compensation

Fees:

Initiation fees - $50.00 Monthly dues $4.00

Note: "Charter newly issued. No present financial data."
Signed Nathan Gordon, Secretary-Treasurer, 3-2-56.

(Attorney: Arnold Cohen)

International Brotherhood of Teamsters, Registration: 12-31-48
Chauffeurs, Warehousemen and Helpers
Local 295 - Air Freight, Chauffeurs, Warehousemen
and Helpers and Allied Workers
215 E. 149th Street
New York, New York

Address in Labor Department Folder:

244 Seneca Street
Warren, Ohio

Material sent to Archives - no filing since 12-31-48

International Brotherhood of Teamsters, Registration: 7-11-56
Chauffeurs, Warehousemen and Helpers
Packing Feed Fertilizer and Processors of
Allied Food Industries
Local 424, AFL, CIO
3 Broadway
Huntington Station, Long Island, New York

Principal Officers:

Joseph Bifulco	President	10¢ per mile for travel
Mario Riccardi	Sec. Treas.	10¢ per mile for travel

Joseph Bifulco - Travel Expenses - $1,890.00
Mario Riccardi - Travel Expenses - $2,450.00

Financial Report:

Dated 7-9-56, Signed by Mario Riccardi, Secretary-Treasurer.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, AFL, CIO, Local 445
2 Post Street
Yonkers 5, New York

Registration: 2-16-56

Principal Officers:

Lester Stickel	Sec. Treas.	$10,455.00 per year

Other Officers:

Harold Clem	Business Agent	$ 8,735.00
William Doyle	" "	9,900.00
John Hofer	" "	8,735.00
Philip Masiello	" "	9,180.00
John Valentino	" "	9,360.00

Financial Report:

Financial Report, dated 2-15-56, signed by Lester Stickel, Sec.-Treas. Up until 1954, Anthony Braden has been shown as President with salary. Not shown since. No President is shown on 1955 or 1956 reports.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers
Confectionery & Tobacco Drivers & Warehousemen's Union, Local 805, AFL, CIO
1780 Broadway
New York 19, New York

Registration: 2-9-56

Principal Officers:

Albert Greenberg	President	$13,260.00
Abe Gordon	Vice President	390.00
(This salary figure has been erased and corrected on the form)		
Milton Holt	Secy-Treas.	15,340.00
Irving Dworet	Recording Secy.	14,690.00

Other Officers:

Sam Swilling	Trustee	11,960.00
Daniel Ornstein	Trustee	6,500.00

Financial Report:

Signed by Milton Holt, Secretary-Treasurer, 2-7-56

(Arthur A. Cohen - CPA - 1457 Broadway, New York 36, Longacre 3-2040)

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers
Private Sanitation Union, Local 813, AFL, CIO
147 Fourth Avenue
New York 3, New York

Registration: 3-12-56

Principal Officers:

Carmine Villano	President	$ 9,010.00
John De Vito	Vice President	No Compensation
Bernard Adelstein	Secy.-Treas.	$16,050.00

Other Officers:

Alfred Kregel	Business Agent	$ 8,215.00
Anthony Davanza	Business Agent	8,480.00
Thomas F. Nolan	Business Agent	8,215.00
Amelio Migliore	Business Agent	8,215.00

Financial Report:

Signed by Carmine Villano, President, 3-2-56

Initiation Fees $100.00 Monthly Dues $6.00

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers
Paper Products & Miscellaneous Chauffeurs, Warehousemen and Helpers
Local 27, AFL, CIO
147 Fourth Avenue
New York 3, New York

Registration: 3-19-56

Principal Officers:

Andrew Rosalbo	President	$11,700.00 per year
Benjamin Muldrew	Vice President	No compensation
Joseph Parisi	Secy-Treas.	16,900.00

Other Officers:

Anthony Leggio	Pusiness Agent	$11,700.00
Patsy Crapanzana	Business Agent	11,700.00
James P. Cardace	Business Agent	7,800.00

Fees:

Initiation Fee $75.00 Monthly Dues $6.00

Financial Report:

Signed by Andrew Rosalbo, President, 3-16-56.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers
Express, Meat, Liquor & Commissary Chauffeurs and Helpers
Local Union 816
364 W. 34th Street
New York 1, New York

Registration: 1-26-56

Principal Officers:

Harry Martin	President	$10,725.00
Martin T. Lacey	Secy., Treas. & Business Manager	9,000.00
Peter Brunie	Vice President	10,140.00

Other Officers:

Lester Connell	Recording Secy.	10,140.00
Martin T. Lacey, Jr.	Business Agent	10,140.00
James E. Lacey	Business Agent	10,140.00
Walter Flowers	Trustee	10,140.00
Frank Mirro	Trustee	3,510.00
Michael J. Collins	Trustee	10,725.00

Fees:

Initiation Fees: $75.00, $56.00, $41.00 and $25.00
Monthly Dues: $3.00 and $5.00

Financial Report:

Dated 1-24-56, signed by Martin T. Lacey, Secy-Treas.

(Attorney, Samuel J. Cohen, Counsellor at Law, 50 East 42nd St. N Y.)

International Brotherhood of Teamsters, Chauffeurs Warehousemen and Helpers Building Material Teamsters Local 282
265 West 14th Street
New York 11, New York

Registration: 2-23-56

Principal Officers:

John O'Rourke	President	$23,340.20
James McCarthy	Vice President	14,225.66
Anthony Duffy	Secy.-Treas.	19,512.36

Other Officers:

James Colgan	Recording Secy.	8,450.00
William McKee	Business Agent	14,225.66
James Dolan	Business Agent	14,225.66
Eugene O'Rourke	Business Agent	14,225.66
Vincent D'Ambrosio	Business Agent	14,225.66
John Maselli	Business Agent	14,225.66
Louis DePetro	Business Agent	14,225.66

Financial Report:

Dated 2-21-56 signed by Anthony Duffy, Secy.-Treas.

International Brotherhood of Teamsters Chauffeurs, Warehousemen and Helpers Local Union 560, AFL, CIO
69 Jefferson Street
Hoboken, New Jersey

Registration: 4-5-56

Principal Officers:

Michael Sheridan	President	$15,600.00
John J. Conlin	Secy.-Treas.	19,500.00
Edward A. Hughes	Recording Secy.	15,600.00

Other Officers:

Zigmund Pskowski	Vice President	15,600.00
William J. Madison	Trustee	15,600.00
Fred Meyer	Trustee	15,600.00
William E. Gonder	Trustee	15,600.00
Albert McCullough	Business Agent	15,600.00
Paul Ciampi	Business Agent	15,600.00
Anthony Provenzana	Business Agent	15,600.00
Joseph Santiello	Business Agent	15,600.00

Financial Report:

Signed by Edward A. Hughes, Recording Secretary, 4-3-56.

Amalgamated Workers Union, AFL - CIO Registration: 4-23-56
Local 139
(International Union of Doll & Toy Workers
of the US and Canada, AFL and CIO)
225 Lafayette Street
New York, New York

Principal Officers:

Milton Gordon	President	"None as yet"
Robert E. Fox	Secy.-Treas.	"
Ruth Zager	Recording Secy.	"

Financial Report:

Financial Report, signed by Robert E. Fox, Secretary-Treasurer, 4-20-56.

Retail Furniture Employees Union 1115E Registration: 9-17-56
(Retail Clerks International Association)
130 West 42nd Street
New York, New York

Principal Officers:

Edward D'Angelo	President $150.00 wk. plus $25.00
Joseph LoSardo	Administrator 150.00 wk. plus $25.00

Fees:

Initiation Fees $10.00 to $50.00 Monthly Dues $3.00 to $6.00.

Undated Financial Report signed by Edward D'Angelo, President

Note: It was noted that Arnold Cohen, Counsellor at Law, 2 Lafayette Street, New York, 7, Worth 2-2780-1 prepared a large number of the Registration Forms and wrote correspondence to the Labor Department about the Union; Arthur A. Cohen, CPA prepared several of the Financial Reports attached to these forms; and, Samuel J. Cohen, Counsellor at Law, 50 East 42nd Street, New York, prepared other papers pertaining to union business. Could there by any connection?

RP

[Filed Aug 21, 1957]

EXECUTIVE SESSION - CONFIDENTIAL

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VIOLATION OR NON-ENFORCEMENT OF GOVERNMENT LAWS AND REGULATIONS IN THE LABOR UNION FIELD

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SATURDAY, JANUARY 19, 1957

United States Senate,

Senate Permanent Subcommittee on Investigations of the Committee on Government Operations,

Washington, D. C.

The subcommittee met at 9:30 a. m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in room 357, Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

MEMBERS OF THE SUBCOMMITTEE PRESENT:

SENATOR JOHN L. McCLELLAN, Democrat, Arkansas
SENATOR HENRY M. JACKSON, Democrat, Washington
SENATOR STUART SYMINGTON, Democrat, Missouri
SENATOR JOSEPH R. McCARTHY, Republican, Wisconsin
SENATOR KARL F. MUNDT, Republican, South Dakota

MEMBERS OF THE PROFESSIONAL STAFF PRESENT:

ROBERT F. KENNEDY, Chief Counsel to the Subcommittee
JAMES N. JULIANA, Chief Counsel to the Minority
JEROME S. ADLERMAN, Assistant Counsel
RUTH Y. WATT, Chief Clerk

PROCEEDINGS

THE CHAIRMAN: The committee will come to order.

(Members of the subcommittee present at the convening of the hearing were Senators McClellan, Jackson, Symington, McCarthy and Mundt.)

THE CHAIRMAN: Will the witness be sworn?

Do you solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole

truth and nothing but the truth, so help you God?

MRS. TOLLS: I do.

THE CHAIRMAN: Be seated.

TESTIMONY OF HELEN HARDY TOLLS
(ACCOMPANIED BY HER COUNSEL, ROBERT M. SCOTT, 1001 CONNECTICUT AVENUE, WASHINGTON, D. C.)

THE CHAIRMAN: State your name and your place of residence and your business or occupation, please.

MRS. TOLLS: My name is Helen Hardy Tolls, of Miles City, Montana.

THE CHAIRMAN: Did you give your address and your profession or business?

MRS. TOLLS: Miles City, Montana.

THE CHAIRMAN: For some reason you do not want to give your occupation or business?

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THE CHAIRMAN: I understand that we have the information and it will serve our purposes without making it a matter of record at this time.

You may proceed, Mr. Counsel.

MR. SCOTT: Thank you, sir.

MR. KENNEDY: You lived in Portland, Oregon, for a while?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: Could you tell the committee in what years, after 1950, you lived in Portland?

MRS. TOLLS: 1952, 1953, 1954, 1955; until March of 1956.

MR. KENNEDY: While you were in the City of Portland, were you running -- you ran certain houses of prostitution?

MRS. TOLLS: No, sir.

MR. KENNEDY: Did you run any call houses while you were there?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: Now, you ran them in conjunction with Helen Smalley?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: Would you explain to this committee the difference between your call houses and the houses of prostitution?

MRS. TOLLS: The difference between what we call a walk-in spot and a call house is that we have a clientele that is only known to us, and you do not take any strangers, any walk-ins, any cab loads, or anything of that nature. They are received by us through friends and through connections around the town.

* * * * *

MR. KENNEDY: Mrs. Tolls, in 1954 and 1955, and I don't have the exact date, did you have conversations with a Mr. Tom Maloney in Portland, Oregon?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: You met Tom Maloney there?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: In what connection did you meet him?

MRS. TOLLS: The first time I met him, the first time I saw him was in the Desert Room, in Portland, Oregon. He was dining or drinking at a table adjoining the one that Mrs. Smalley and myself were dining at. He was introduced to us at that time.

MR. KENNEDY: How was he introduced to you?

MRS. TOLLS: By their table sending our table a drink, and Helen said, "This is Mr. Maloney."

MR. KENNEDY: Who was he dining with?

MRS. TOLLS: Mr. Plotkin.

MR. KENNEDY: Mr. Leo Plotkin?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: Did they come over and sit at your table?

MRS. TOLLS: No, sir; our tables were so close that was unnecessary, and we visited back and forth.

MR. KENNEDY: Did Mr. Maloney tell you what he was doing in Portland?

MRS. TOLLS: No; not at that time.

MR. KENNEDY: Did he subsequently tell you that he had strong connections with the District Attorney?

MRS. TOLLS: I don't recall him telling me that, and I think that came from Mr. Zussman.

MR. KENNEDY: He is the one that owns this Desert Inn where you were eating?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: What did Mr. Zussman or Mr. Maloney or both of them tell you about Mr. Maloney's connection with the District Attorney?

MRS. TOLLS: He was his right-hand man, more or less.

MR. KENNEDY: Tom Maloney was his right-hand man?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: And that Tom Maloney had certain power with the District Attorney?

MRS. TOLLS: I don't know that it was power.

MR. KENNEDY: He could get certain things done through the District Attorney, or certain influence with the District Attorney?

MRS. TOLLS: He led me to believe that if there was any information available, that he would have it. He was such a friend of the District Attorney's that he would be able to obtain any information that he wanted.

* * * * *

MR. KENNEDY: Let us start over again. Did Mr. Maloney indicate to you that he, Mr. Maloney, had influence with the District Attorney, Mr. Langley?

MRS. TOLLS: As I said, I don't think that the word "influence" is that he was in a position to know what was going on and what would be happening in the future.

In other words, your word "influence" makes me think that he was influencing Langley, and that isn't what I understood.

MR. KENNEDY: It was more a question that he did not have to influence him, but that he would know what was in Langley's mind?

MRS. TOLLS: That is right.

MR. KENNEDY: Was one of the things that he informed you about, was the operation of some of these houses, of these call houses?

MRS. TOLLS: It was definitely stated, and I am not sure whether it was Mr. Maloney or Mr. Zussman. I am inclined to think it was Mr. Zussman. This whole thing started first with Mr. Zussman. Mr. Maloney didn't enter the picture.

However, I had met him casually at this bar. But I didn't know that Mr. Zussman was getting his information from Mr. Maloney for several days, or a week or 10 days afterwards.

MR. KENNEDY: What sort of information did he give you?

MRS. TOLLS: It was information that there would be no more walk-in houses of prostitution.

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MR. KENNEDY: Did Mr. Elkins have anything to do with them?

MRS. TOLLS: That was the rumor, but I don't know that for a fact.

MR. KENNEDY: Did you ever have any personal experience with Mr. Elkins?

MRS. TOLLS: I have never met the gentleman.

MR. KENNEDY: Did you ever know that he received any of his income from houses of prostitution?

MRS. TOLLS: I don't know that; no, sir.

MR. KENNEDY: Then what did Mr. Zussman tell you about what could operate according to the District Attorney?

MRS. TOLLS: According to the District Attorney, the houses of ill repute were to be completely closed, but that the call girls and the call houses were not going to be disturbed.

* * * * *

MRS. TOLLS: Yes, sir; we furnished two rooms, and the place was partly furnished.

MR. KENNEDY: Did you go out and buy some furniture?

MRS. TOLLS: Yes, sir

MR. KENNEDY: Then did Mr. Zussman come up and look the place over?

MRS. TOLLS: Yes, I think he and Mr. Maloney was with him, one morning or one afternoon, I should say, while I was working in the place, getting it prepared.

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MR. KENNEDY: Did Zussman then agree?

MRS. TOLLS: He was one of our contacts.

MR. KENNEDY: He was going to send people up?

MRS. TOLLS: Yes, sir, or he would telephone for people to come down.

MR. KENNEDY: What financial arrangements had you made with him?

MRS. TOLLS: We didn't make a definite financial arrangement.

MR. KENNEDY: What was it understood that he was to receive?

MRS. TOLLS: There wasn't any. The first customer that he sent up, I reimbursed him and at the time he said, "Well, that isn't necessary; if my bartenders are taken care of, that is their business." But I felt as long as he was one of our contacts, that he should be treated equally as well as the rest of them were.

MR. KENNEDY: How much were you giving your contacts?

MRS. TOLLS: We averaged it on a percentage basis, and it was $2 out of $10.

MR. KENNEDY: Out of every $10 you would send back to the person who sent the individual up $2?

MRS. TOLLS: That is right.

* * * * *

MR. KENNEDY: After this first conversation with Zussman, when he told you that Langley would not close these places up, did you learn at a subsequent time that that information had come through Tom Maloney?

MRS. TOLLS: Yes, sir.

MR. KENNEDY: Would you tell the committee about that?

MRS. TOLLS: That was on a statement by Mr. Zussman, that Mr. Maloney was the man that he was getting his information from.

MR. KENNEDY: That Langley would allow these places to stay open?

MRS. TOLLS: That he would not molest the call girls or call houses.

MR. KENNEDY: Did you have any conversations with Maloney about that?

MRS. TOLLS: I do not recall.

MR. KENNEDY: You never had any conversation with him?

MRS. TOLLS: No, sir; with the exception of the time that I was telling you downstairs.

MR. KENNEDY: Would you tell the committee that?

MRS. TOLLS: At the time that we started this call house, the houses of ill repute had patrol wagons parked in front of them, to discourage customers and to keep them from operating. Those patrol cars were left there probably for two or three days.

After we established ourselves on Pettigrew Street, I think we were there probable two or three weeks, and they had another drive by placing these patrol cars in front of the houses down town. After they had been there about three days, they were placed in front of these places between ten-thirty and three in the morning, and on about the third day, possibly the fourth day, there was a patrol car parked in front of the Pittigrove Street address.

At that time, I called Mr. Zussman, and told him that I understood that that was not going to happen to call houses. He put Mr. Maloney on the phone, and apparently he was in the Desert Room, and Mr. Maloney came to the phone and I told him quite crossly that I understood that he had said that Mr. Langley would not disturb the call houses and he gave some negligible remark, and I said, "Well, it was on your say-so to Mr Zussman that we invested this money in the first place."

Then he backtracked very quickly, and he said, "Well, Nat had no business saying such a thing," and so forth and so on, and I hung up.

MR. KENNEDY: Did you have a conversation then with Mr. Zussman about the fact that your place was closed, or did you have a conversation with Mr. Maloney?

MRS. TOLLS: I know that I didn't with Mr. Maloney, and I think that I possibly have been in the club and I would have said that we were closed, but as soon as we found a new location we were going to re-open.

MR. KENNEDY: We have some information that $2500 was paid by you and the other Helen to Mr. Zussman, and to Mr. Tom Maloney, for allowing this place to remain open. Is that true?

MRS. TOLLS: It is not true.

MR. KENNEDY: You did not pay him any money?

MRS. TOLLS: That is right, sir.

MR. KENNEDY: You didn't complain to anyone in the City of Portland that you had to pay $2500?

MRS. TOLLS: No, sir.

MR. KENNEDY: Did your husband, Mr. Tolls, complain to anybody in the City of Portland about the fact that he had to make this payment?

MRS. TOLLS: To my knowledge; no, sir.

MR. KENNEDY: Did you tell the Chief's brother that you had opened the house on the assurances that you received from Tom Maloney?

MRS. TOLLS: No, sir.

MR. KENNEDY: On the assurances that you received from Zussman?

MRS. TOLLS: No, sir; not to the Chief.

MR. KENNEDY: But to his brother?

MRS. TOLLS: Yes, I did, sir.

MR. KENNEDY: Did you tell him?

MRS. TOLLS: That it was on Mr. Zussman's information that we went ahead and opened the house. I don't know that I told him it came from Tom Maloney. I may have.

MR. KENNEDY: Now, the following morning after your place was closed, do you remember that Tom Maloney and Zussman came to your place?

MRS. TOLLS: No, sir.

MR. KENNEDY: To try to get you not to talk about the $2500?

MRS. TOLLS: No, sir.

* * * * *

SENATOR McCARTHY: I have just one question.

Who, if anyone, did you pay off besides the individual who got the customers for you?

MRS. TOLLS: No, one, sir.

SENATOR McCARTHY: Maloney got no part of the pay-off?

MRS. TOLLS: There was no pay-off, sir.

SENATOR McCARTHY: Did Maloney get any money directly or indirectly?

MRS. TOLLS: He never sent a customer to the place, sir.

SENATOR McCARTHY: Did he ever get any money directly or indirectly from your operation?

MRS. TOLLS: No, he had never; that is right, sir.

SENATOR McCARTHY: Did you ever talk to Maloney personally?

MRS. TOLLS: Yes, sir.

SENATOR McCARTHY: And you understood that he was the man arranging for the protection?

MRS. TOLLS: There was no protection, sir.

SENATOR McCARTHY: Perhaps we do not understand that. You said the District Attorney would not close you down or bother you if you ran this call house, an illegal venture, and that is what I refer to as protection. That is, that the District Attorney would not bother you. Who did you think had arranged for that type of protection?

MRS. TOLLS: I didn't think that it was an arrangement, and I thought that it was an attitude that Mr. Langley had toward call girls.

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SENATOR SYMINGTON: And Mr. Zussman, why did you think what he said to you made it possible for you to operate without police interference?

MRS. TOLLS: He was a club owner, and the people in this business --

SENATOR SYMINGTON: What do you mean a "club owner"?

MRS. TOLLS: The Desert Room is a lounge, and he owned the lounge, and it is a place where everybody goes that is in my business, and it is a place where all of the vice squads and one thing and another might hang out, and you might see policemen there at any time, and I believed at the time that he knew what he was talking about.

SENATOR SYMINGTON: You felt when he offered to put up the money --

MRS. TOLLS: I remarked about it to Helen, and I said, "People don't invest that way." It wasn't a protection, it was that Mr. Langley's attitude was not -- he didn't feel any animosity toward the call girls or a call house.

SENATOR SYMINGTON: You say Mr. Langley, and you mean the District Attorney?

MRS. TOLLS: That is right; that he was definitely going to close what we call the walk-in spots.

SENATOR SYMINGTON: Was that what Mr. Zussman told you?

MRS. TOLLS: Yes, sir.

SENATOR SYMINGTON: Was Mr. Maloney present when he told you that?

MRS. TOLLS: No, sir.

SENATOR SYMINGTON: What did you and Mr. Maloney and Mr. Zussman talk about when the three of you were together?

MRS. TOLLS: At what time?

SENATOR SYMINGTON: When you said that they visited you.

MRS. TOLLS: The morning that they came up to look at the place, that is all. Mr. Zussman had known us for some time, and had talked about, at the previous meeting, about having a real nice place, and so

whether it was arranged or whether there was any reason for him to bring him, he was with him and they came up to look at the place. It was a very elaborate place.

SENATOR SYMINGTON: You think all Mr. Maloney did was to come up there just to look at the place?

MRS. TOLLS: Yes, sir.

SENATOR SYMINGTON: And Mr. Zussman didn't bring him up there to show it was a type or character of protection beyond what Mr. Zussman had implied?

MRS. TOLLS: Will you repeat that, please?

SENATOR SYMINGTON: You do not think Mr. Maloney came up there as evidence of any protection that you might get?

MRS. TOLLS: I don't think so, sir.

* * * * *

SENATOR McCARTHY: I have one or two questions.

Why was the Teamsters Union interested in this call house business?

MRS. TOLLS: I don't know that they were, sir. I didn't know that Mr. Maloney was attached to the Teamsters Union until this deal came out in the newspapers.

SENATOR McCARTHY: From the information we have, either someone else is lying or you aren't being frank with us. We have the testimony that there were visits to your house by individuals in regard to your paying $2500 and an attempt to get you to quit complaining about that, and you say you weren't there the next morning.

MRS. TOLLS: Senator McCarthy, that isn't true. We were not approached to pay any money and there wasn't a dime paid.

SENATOR McCARTHY: You say you were not in the house for three days after this meeting with the Chief of Police?

MRS. TOLLS: That is right.

SENATOR McCARTHY: Where were you at that time?

MRS. TOLLS: We have our individual homes, and apartments that were within approximately three miles of the place that we rented

SENATOR McCARTHY: During that time, you say you didn't talk to Maloney or Zussman or anyone?

MRS. TOLLS: We didn't talk to Mr. Maloney and I don't recall whether we went to the club during that time and I don't believe we did.

SENATOR McCARTHY: You don't know whether you talked to Zussman?

MRS. TOLLS: That is what I say. I don't recall going to the club during that three-day period.

SENATOR McCARTHY: That seems rather unusual to me, that you had the assurance the District Attorney wouldn't touch you, and the Chief of Police comes in and tells you that he is going to close you up, and then you never go back to contact either Mr. Maloney or Zussman to complain about that.

MRS. TOLLS: We were going directly ahead and rent another place, which we did, in a better location.

THE CHAIRMAN: Were you bothered there?

MRS. TOLLS: No, sir.

* * * * *

THE CHAIRMAN: And thereafter, how long did you operate when you set up the new establishment?

MRS. TOLLS: We rented the place the 1st of October, and how long it continued after the 1st of the year I can't tell you. I left shortly after the holidays and I didn't return.

THE CHAIRMAN: What was your arrangement with the second place?

MRS. TOLLS: We just opened, sir.

THE CHAIRMAN: You just opened?

MRS. TOLLS: Yes, sir.

THE CHAIRMAN: And what arrangements did you have about paying?

MRS. TOLLS: We had no arrangements, dir

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SENATOR McCARTHY: Did you see Maloney in regard to this second operation?

MRS. TOLLS: No, sir.

* * * * *

SENATOR McCARTHY: Mr. Chairman, I understand, not going into her present business, and she says it is not connected with the Teamsters. However, very frankly, I know you want us to be frank with you. I don't think that you are being frank with us at all, because your testimony doesn't jibe, with the other stories we have. Isn't that right?

MRS. TOLLS: I am telling you the absolute truth, sir.

SENATOR McCARTHY: In view of that, I do not believe that you are entitled to any consideration. If you come in here and gave us the complete story --

THE CHAIRMAN: The witness is under subpoena, and, of course, if the committee wants that question answed, the witness will be required to answer it.

SENATOR MUNDT: It is completely not in harmony with the other testimony that we have had.

THE CHAIRMAN: I may say for the record, the testimony or the admissions of the witness herself pretty well indicate what her profession is, and, of course, if you want her to answer on the record, it is all right with me. I have no objection.

* * * * *

THE CHAIRMAN: You understand this is an Executive Session, and some day this testimony may be made public, and some day it may not. It may not and some day it may be made public, and therefore, there has been some suggestion about the rules of the committee, and the committee has rules and it can waive them on occasions just like we do anything, by unanimous consent, but I don't want any question in the record about any partiality about witnesses in this matter.

You will answer the question, please.

MRS. TOLLS: I refuse to answer, sir, on the ground it may tend to incriminate me.

THE CHAIRMAN: You are ordered and directed to answer the question.

MRS. TOLLS: I refus .o answer on the ground it may tend to incriminate me.

* * * * *

THE CHAIRMAN: As of this time, the Chair may say that it indicates that there is perjury before this committee.

MRS. TOLLS: That is something that I do not have to worry about, sir.

SENATOR MUNDT: Someone has to worry about it.

THE CHAIRMAN: You have able counsel to advise you.

If there is nothing further, you are excused.

It is quite probable and this isn't a certainty, that contempt proceedings will grow out of these hearings. It may go against a number of witnesses. I can't say at that time and that is a matter for the committee. I think her failure and refusal to answer as to the business she is in presently clearly constitutes contempt.

* * * *

DEFENDANT'S EXHIBIT NO. 15B

[Filed August 21, 1957]

EXECUTIVE SESSION -- CONFIDENTIAL

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VIOLATION OR NON-ENFORCEMENT OF GOVERNMENT LAWS AND REGULATIONS IN THE LABOR UNION FIELD

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THURSDAY, JANUARY 17, 1957

United States Senate,

Senate Permanent Subcommittee on Investigations of the Committee on Government Operations

Washington, D. C.

The subcommittee met at 5:35 p. m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in Room 357 of the Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

MEMBERS OF THE SUBCOMMITTEE PRESENT:

SENATOR JOHN L. McCLELLAN, Democrat, Arkansas
SENATOR HENRY M. JACKSON, Democrat, Washington
SENATOR STUART SYMINGTON, Democrat, Missouri
SENATOR SAM J. ERVIN, JR., Democrat, North Carolina

MEMBERS OF THE PROFESSIONAL STAFF PRESENT:

ROBERT F. KENNEDY, Chief Counsel to the Subcommittee
JAMES N. JULIANA, Chief Counsel to the Minority
JEROME S. ADLERMAN, Assistant Counsel
RUTH Y. WYATT, Chief Clerk.

PROCEEDINGS

(Present at the convening of the executive session were Senators McClellan and Ervin.)

THE CHAIRMAN: Let the record show that Mrs. Taylor is being recalled to the stand in executive session to testify.

TESTIMONY OF GERALDINE TAYLOR,
BAYONNE, NEW JERSEY - (Resumed)

MR. KENNEDY: When you were working at Local 227, who did the offices of Local 227 operate through Mrs. Taylor?

MRS. TAYLOR: Do you mean like Mr. Dioguardi?

MR. KENNEDY: Yes.

MRS. TAYLOR: Yes, through him.

MR. KENNEDY: Were you in touch with him frequently during this time.

MRS. TAYLOR: Not myself. He would ask to talk to Mr. Santa Maria.

MR. KENNEDY: But the offices were in touch with him frequently?

MRS. TAYLOR: Yes.

MR. KENNEDY: Was there money being sent to him during this time?

MRS. TAYLOR: I believe so.

MR. KENNEDY: Can you tell us how you understood the money to be sent?

MRS. TAYLOR: They would receive a call, and then have various checks cashed and then go to see Mr. Dioguardi.

MR. KENNEDY: They would receive a call from Mr. Dioguardi and then go through the operation of issuing these checks in Petrozza's or Virgilio's or Trani's name, is that right?

MRS. TAYLOR: Yes.

MR. KENNEDY: And you would take them down and cash them and bring the cash back to them and then they would go up and see John Dio, is that correct?

MRS. TAYLOR: Yes, that is correct.

MR. KENNEDY: That is what you gathered was the procedure?

MRS. TAYLOR: Yes.

MR. KENNEDY: We were talking about this before.

John Dio had to leave or disassociate himself from these unions, is that correct?

MRS. TAYLOR: That is correct.

MR. KENNEDY. Did this procedure continue as far as taking money up to him. of his calling?

MRS. TAYLOR: Yes, that is right. He wasn't supposed to be in charge of the union, but it still continued.

MR. KENNEDY: He still retained control over the union during this period of time?

MRS. TAYLOR: Yes.

MR. KENNEDY: They would be in touch with John Dio frequently during this period of time?

MRS. TAYLOR: Yes, that is right.

MR. KENNEDY: The procedure of supplying him money continued even after he disassociated himself with the union, is that right?

MRS. TAYLOR: Yes

MR. KENNEDY: On the Riesel thing, which I also wanted to cover with you in executive session, did you hear them speak strongly about Riesel?

MRS. TAYLOR: Yes, on occasion.

MR. KENNEDY: They spoke strongly about him?

MRS. TAYLOR: Yes.

MR. KENNEDY: And that they disliked him?

MRS. TAYLOR: Yes.

MR. KENNEDY: And you heard them make strong statements about him on occasions?

MRS. TAYLOR: Yes.

MR. KENNEDY: Who did you hear make strong statements about him?

MRS. TAYLOR: I think the one that I can recall very plainly was Mr. Harry Reiss.

MR. KENNEDY: What did he say, that you remember?

MRS. TAYLOR: Words to the effect that it was too bad he weren't dead, or something like that.

MR. KENNEDY: Because of what he was writing?

MRS. TAYLOR: Yes.

MR. KENNEDY: That he hoped he would drop dead?

MRS. TAYLOR: Yes.

MR. KENNEDY: Did you make a statement to your husband, after the acid was thrown in Riesel's eyes, that you thought you would not be surprised if it arose out of people associated with or in this union?

MRS. TAYLOR: Yes.

MR. KENNEDY: Because they felt so strongly about this?

MRS. TAYLOR: Yes.

MR. KENNEDY: Those are the matters I wanted to inquire about.

THE CHAIRMAN: Had you been working with them at this time?

MRS. TAYLOR: I had been working at this other place for about a year at that time.

THE CHAIRMAN: Why did you quit this union?

MRS. TAYLOR: I overheard them discussing letting me go.

THE CHAIRMAN: Discussing letting you go?

MRS. TAYLOR: Yes. There were some pros and cons, and Mrs. Reiss was very emphatic about it, so I decided to quit. My husband called up and told them.

THE CHAIRMAN: Mr. Reiss was very emphatic about wanting to get rid of you, so you just resigned?

MRS. TAYLOR: I quit, yes.

MR. KENNEDY: There was just one other matter on the minutes that were signed. Do you remember that the minutes would be signed to say that all the officers were present during the meetings?

MRS. TAYLOR: Yes.

MR. KENNEDY: They were signed to that effect?

MRS. TAYLOR: Yes.

MR. KENNEDY: Were, in fact, the officers present when they would say that they were present?

MRS. TAYLOR: No, not all of them.

MR. KENNEDY: They were not?

MRS. TAYLOR: No.

MR. KENNEDY: They were false also, is that correct?

MRS. TAYLOR: In other words, as to the fact that all of them were there, yes.

THE CHAIRMAN: Did you write up those minutes?

MRS. TAYLOR: I typed them.

THE CHAIRMAN: You typed them?

MRS. TAYLOR: Yes.

THE CHAIRMAN: Who instructed you to do it?

MRS. TAYLOR: Mr. Reiss usually dictated them to me.

THE CHAIRMAN: He dictated them to you and then you transcribed them and typed them up?

MRS. TAYLOR: Yes.

THE CHAIRMAN: In the dictation, they would state that all members were present?

MRS. TAYLOR: Yes.

THE CHAIRMAN: And you know they were not present?

MRS. TAYLOR: Yes.

(Seantor Symington entered the room.)

MR. KENNEDY: Were there any statements you remember by Santa Maria or Reiss regarding items they would fill out as far as cash was concerned, that incident you told me about, about saying "We should scrawl the names."?

MRS. TAYLOR: Yes.

MR. KENNEDY: Would you relate that to the committee?

MRS. TAYLOR: The fact that he wrote out all the checks and also filled in the expenditures, they said that in that way if he scrawled his handwriting, they could always say they didn't recall exactly what it was he had written down.

THE CHAIRMAN: They would not be able to recall exactly what it was?

MRS. TAYLOR: Yes.

THE CHAIRMAN: Then there was concealment as to their true financial transactions all the way along?

MRS. TAYLOR: It would appear that way, definitely.

THE CHAIRMAN: Are there any questions, Senator?

SENATOR ERVIN: No. Mr. Chairman.

I would just like to compliment and congratulate Mrs. Taylor for her efforts in trying to assist the committee; and also trying to make the United States a better place for a citizen in which to live.

THE CHAIRMAN: It is certainly a refreshing experience, after the witnesses we have had on the stand which the Committee has had to tolerate.

MRS. TAYLOR: Thank you.

THE CHAIRMAN: Thank you very much. You may be excused now to return to your home, with the admonition that you will remain under subpoena if we should need you again. We will notify when you can come, giving you reasonable notice. You are under subpoena, and will remain under that subpoena.

The Chair will remind you of what he said in the hearing this afternoon, that if any one attempts in any way to intimidate you or challenge what you have done here today, or threaten you with any threats, you should report it promptly.

MRS. TAYLOR: I shall.

MR. KENNEDY: According to our conversation, you gave a fictitious address.

MRS. TAYLOR: Yes. I didn't give any, actually.

SENATOR ERVIN: You have the right address.

MR. KENNEDY: I know the address.

These are the checks, Mr. Chairman, that she cashed, an amount comes to $5,718, that she cashed and brought back.

THE CHAIRMAN: She has identified the checks?

MR. KENNEDY: I don't believe she has.

Would you identify this group of checks, please, Mrs. Taylor?

THE CHAIRMAN: Has the witness examined all of the checks submitted to you?

MRS. TAYLOR: Yes, I did.

THE CHAIRMAN: Do you find that those are photostatic copies of the checks you cashed, to which you have testified?

MRS. TAYLOR: Yes, that is correct.

THE CHAIRMAN: Those checks, and the number may be ascertained, may be made Exhibit Number 17 for reference.

That is Exhibit 17 of the Executive Session.

This testimony may not be made public, except for the checks.

Thank you very much.

MRS. TAYLOR: Thank you.

THE CHAIRMAN: Will the next witness be sworn, please?

You do solemnly swear that the evidence you shall give before this Senate Investigation Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. EARL: I do.

TESTIMONY OF STANLEY W. EARL,
6104 NORTH MONTANA AVENUE,
PORTLAND, OREGON.

THE CHAIRMAN: There is present a newspaper man from Portland, Oregon. This is an executive session, but with the permission of the committee, by reason of the cooperation he has given to the committee in having assisted the committee and his continuing efforts to assist and cooperate with the committee, if the committee will do so the Chair, unless there is objection, will be glad to permit the newspaper man -- his name is William Lambert, with The Oregonian -- to remain present.

That is on the condition, Mr. Lambert, that you do not reveal any statement you hear made until such time as the committee may make this testimony public.

MR. LAMBERT: All right, sir.

THE CHAIRMAN: With that admonition and understanding, if there is no objection --

SENATOR ERVIN: Does the witness have any objections?

MR. EARL: No, sir, not at all.

THE CHAIRMAN: I think they have worked together closely, as I understand it.

If there is no objection, he may remain present.

Witness, state your name, your place of residence, and your business or occupation.

MR. EARL: My name is Stanley W. Earl. I reside at 6104 North Montana Avenue.

SENATOR SYMINGTON: How do you spell your name?

MR. EARL: The last name, sir, is spelled E-a-r-l.

I reside at 6104 North Montnana Avenue, Portland 11, Oregon. I am an elected official of the city of Portland, Commissioner of Public Affairs, Position Number 1, at the present time.

THE CHAIRMAN: Is that comparable to a City Council?

MR. EARL: Yes. I am a member of the Portland City Council, and have been Acting Mayor, and just got through being president of the Council.

MR. KENNEDY: I might say in connection with that, the City Council extended an invitation to this committee to hold hearings on this matter.

MR. EARL: Yes. If I may, under date of December 21, a communication was addressed to the Honorable John L. McClellan, Senator, Chairman of the Committee, from Mr. Gibson.

THE CHAIRMAN: That letter may be placed into the record at this point. You need not read it.

MR. EARL: This is a copy of it, Senator.

(The letter referred to follows:)

December 21, 1956

Honorable John L. McClellan, Senator,
Chairman, Investigations Subcommittee of
Governmental Operations Committee,
Senate Office Building,
Washington, D. C.

Dear Senator McClellan:

As Auditor of the City of Portland, Oregon, I have been directed by the City Council, the governing body of the City of Portland, to extend to your Investigations Subcommittee an invitation to hold, here in Portland, your current investigations concerning activities of the

International Brotherhood of Teamsters and vice conditions in the Pacific Northwest. The Council of the City of Portland approved this invitation as a result of discussion concerning newspaper reports of possible delays to the Committee in examining records and reports, and approved the view that: an investigation hearing held in Portland, Oregon, would minimize delays to the Committee; would permit City and State officials to testify as the Committee may desire and supply their records to the Committee as it may request, with greater facility; and, would afford to the 13,000 members of the Teamsters' Union in the greater Portland area, a wider knowledge of organization operations.

I am further directed by the City Council to assure you and the Committee that, if the Committee so desires, it may have the use of the City Council Chambers with recording equipment for use of the Committee, and that the City of Portland will make available to the Committee the facilities of the Bureau of Police of the City of Portland, in so far as the Committee may desire to use such facilities, and will offer the full cooperation of the City of Portland.

Yours respectfully,
Auditor of the City of Portland

WG:js

cc. Honorable Wayne Morse
Honorable Richard L. Neuberger
Robert Kennedy
Robert Thornton

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MR. KENNEDY: Mr. Earl, you have been active in the labor union movement for quite a period of time?

MR. EARL: Yes. I am at the present time a member of the State, County, and Municipal Employees Union. I have been, in 1938, 1939 and 1940, respectively, Vice President and President of the International Woodworkers of America Local Union, with a membership of over 3,000. In 1940 and 1941 I was financial secretary and business agent of the local union, International Woodworkers, in Portland, Oregon. In 1942 to 1949 I was executive secretary of the Oregon State CIO Council, comprising some five unions, elected each year. In 1949,

in the month of August, I went to Korea as a special adviser to the American Mission in Korea. Foreign Service Reserve Officer Grade 2. My assignment was as Labor Adviser to the Chief of the American Mission, and I represented all American Labor in that mission. I stayed there until after hostilites began. Then I came back to the States.

I was elected as a City Commissioner in November of 1952, taking office on January 1, 1953. I have just been re-elected six months ago for another four year term, which I started again on January 2, 1957.

MR. KENNEDY: So you have had a long career in the labor movement.

MR. EARL: Yes, I have also been a member of the War Labor Poard, the West Coast Lumber Commission, and also the Regional War Manpower Advisory Commission on the West Coast.

MR. KENNEDY: Mr. Earl, in the western part of the country, or particularly in Portland, is there a gambling aspect, pinball machines?

MR. EARL: Yes, there was.

MR. KENNEDY: There was?

MR EARL: Pinball machines were outlawed by ordinance in 1951 in Portland by the City Council That ordinance was appealed eventually to the United States Supreme Court. The police power of the city was upheld. After various and sundry attempts by pinball operators, in conjunction with the United Brotherhood of Teamsters, and certain agents, their efforts to legalize those machines failed by a vote of the people.

MR. KENNEDY: Was the reason that they were declared illegal because of their gambling devices?

MR. EARL. They were held to be gambling devices by the Oregon Supreme Court which upheld the City's contention.

MR. KENNEDY: You mentioned the Teamsters and the pinball machines. You and I have discussed this matter before. Could you tell the committee in your own words what experiences you had with any Teamster officials or any one associated with the Teamsters

regarding the promotion of the pinball machines in Portland, Oregon?

MR. EARL: I will be glad to.

In April of 1954, an ordinance was before the City Council to legalize pinball machines. At one time I had joined with the Mayor and one other Commissioner to legalize those machines, the reason being that the case had been on appeal before the Oregon Supreme Court, and I honestly felt we were losing a lot of revenue because these machines, roughly about 2,200, were operating free of charge.

SENATOR SYMINGTON: Were operating free of charge?

MR. EARL: Yes.

SENATOR SYMINGTON: Who operated them?

MR. EARL: When I say that, I mean there was no license upon them by the city.

SENATOR SYMINGTON: So the city was getting nothing out of them?

MR. EARL: That is correct.

SENATOR SYMINGTON: Who was getting something out of them?

MR. EARL: The only ones getting something out of them would be the 750 tavern operators and the very few persons who owned a great majority of them. For instance, one dealer in the city of Portland, Stan Terry, owned over one thousand of those machines, from which he got 50 per cent of the revenue.

SENATOR SYMINGTON: And the tavern owner got the other 50?

MR. EARL: After certain deductions are made for political assessments, yes.

SENATOR SYMINGTON: Who made those assessments?

MR. EARL: As far as I know, those assessements were made by the Oregon Coin Machine Association of Oregon.

SENATOR SYMINGTON: Is that connected with any labor association?

MR. EARL: Yes. They became a part of Local 223 of the International Protherhood of Teamsters, a miscellaneous local union, which took into membership not only the employees of the pinball merchants,

but the owners, the distributors. The man who owns it now, he also became a member of the International Brotherhood of Teamsters, Local 223.

SENATOR SYMINGTON: So as I understand you, these machines were brought into town by a man who owns 1,000. That man took a cut of 50 percent of the profits. He joined a Teamsters union and the Teamsters union made certain political assessments after he took his 50 per cent cut, and the remainder of the profits went to the man who had the slot machine in his place of business. Is that correct?

MR. EARL: Well, Senator, I don't know if the Teamsters Union made the assessment. I am sure that the Oregon Coin Machine men made an assessment.

SENATOR SYMINGTON: I stand corrected.

MR. EARL: The machines had been in Portland for years and years and years.

SENATOR SYMINGTON: When did you know the relationship between the Oregon Coin Machine company and the Union?

MR. EARL: I will have to relate the story to you, because I was involved.

In April of 1954, on April 23, to be exact, at a public hearing on an ordinance to legalize pinball machines, various doubts assailed my mind and also the mind of another person who was going to legalize these machines. The reason that doubt assailed me was when I listened to several women get up and tell how their husbands had lost their pay checks in these machines. I also received a letter from Judge Virgil Langtree, of the Court of Domestic Relations, in which he told me that these machines were responsible for a great number of ivorces among the young folks. I also had received communications from the Church Association in Portland.

The doubts that were raised in that hearing led me to ask that the decision to legalize be put off for one week. That was done.

On April 28, in another Council meeting, open to the public, I moved suspension of the rules, which was seconded by another Commissioner, and I moved that the ordinance be suspended and given no further

consideration. That was on April 28, 1954. Later on, I was approached by business agents of the Teamsters union, specifically John Deines of the Sanitary Drivers and by Lloyd Hildreth, business agent of Local 223, which comprised the pinball marchants.

I was asked to switch my vote. I had the deciding vote on that Council at that time. There are five of us. There are four Commissioners and a Mayor. They called on me and lobbied me, and I told them that I could not in good conscience support that legislation any further. I immediately swung from being a champion of pinballs to an opponent of pinballs and all that they represented, for this reason, that I went out and played them during the week. I was amazed to see how quickly the money disappeared. I had also found that there were over 2, 200 of them in Portland, that the income from those was about 5 million dollars a year, and that it was certainly not going to anything productive.

The next thing that happened was this, and I have my dates well in mind because this was of some consequence to me.

On May 18, 1955, I was invited to lunch by Mr. Clyde Cardinal Crosby, the International representative of the Teamsters Union in Oregon, and he put this proposition to me at this luncheon, which was held in the Club Portland, 515 Park Street, Portland, Oregon.

First, he asked me to go to Seattle to meet some of what he called "the boys."

SENATOR SYMINGTON: Who is this?

MR. EARL: Clyde Crosby, International representative for the Teamsters in the State of Oregon. I refused that invitation. The next thing is he asked me if I would be interested in running for Mayor of the City of Portland with the blessing of the Teamsters. I assured him I would not. At the time --

SENATOR SYMINGTON: May I interrupt? Most people would like to be Mayor, if they are in politics. Why did you not want his support?

MR. EARL: Well, sir, for several reasons. If you bear with me, I will give you a couple of them. Number one is I have a three and a

half year old child, a boy, and I like him, and would like to grow up with him. I have a 15-year old girl going to high school, and a seven year old girl going to grammar school. I have been Acting Mayor of the City of Portland, and frankly, I have no aspirations to be Mayor, whether it is with the blessings of the Teamsters or anyone else. You must understand that he said this was to be four years hence, that they were supporting the present Mayor of Portland. I told him I was not interested in that.

He then told me this, he said, "I have a message for you from John Sweeney."

John Sweeney was Secretary-Treasurer of the Western Conference of Teamsters. He held the same job, I believe, that Mr. Brewster held.

I told him I was not --

SENATOR SYMINGTON: You were going to talk about John Sweeney.

MR. EARL: This message. The message that was given to me by Mr. Crosby was this, that if I did not support the pinball legislation, that I would have political opposition and be retired from the scene. That was on May 18, 1955.

The other thing that he told me was this: He did not mention any sum of money, but he did say that what I wanted I could have without going through a third party, and I am assuming that he was talking about cash. I turned all of those things down.

The next day was May 19. We had another Council meeting and I personally made the motion to file his letter on pinballs and give it no further consideration.

SENATOR SYMINGTON: What did his letter say?

MR. EARL: His letter asked for a rehearing on the pinball issue before the City Council of the City of Portland.

On my motion, with the Mayor dissenting, his letter was filed and given no further consideration. The Teamsters --

SENATOR SYMINGTON: Excuse me, I am very interested in this story. What was the vote?

MR. EARL: The vote was 4 to 1. The Mayor and I disagreed on

pinballs all the way through. The Teamsters then, in conjunction with the Pinball Association -- and actually, what they are is glorified slot machines. Believe me, I have had education on them now.

SENATOR SYMINGTON: When you say "pinball," do you pull a handle?

MR. EARL: No, sir. This is when you put a dime in, or you can put up to six dollars or ten dollars on one ball, and if you can run up a big enough score, you might get back $15. Gambling is illegal, but we had 2, 200 of them in the gambling business.

The Teamsters then became quite active with the Oregon Coin Association men in pushing petitions for legalizing pinballs. They took this position through advice of their counsel, that the ordinance that was passed in 1951 and upheld applied only to coin in the slot pinball machines, so they took the coin slots off of them and had the patrons pay the bartender or whoever was operating it, and then they would push a button and it would rack up so many dimes. They said this makes it so that the 1951 ordinance does not apply to these pinball machines.

I immediately introduced an ordinance which would outlaw pinball machines, whether coin operated, key operated, radar operated, or however they were operated. They would be outlawed. That passed the City Council and was the subject of a referendum through the Teamsters and the Oregon Coin Association men. It was voted on in May, 1956, and upheld by a tremendous majority. The Teamsters and the Oregon Coin Machine men then initiated another measure which would have legalized pinball machines, and it was defeated by a 45, 000 majority in the November election.

During that year, I had my political opposition that was promised to me. The Teamsters, under the personal sponsorship of Mr. Clyde Crosby, put in the race against me the County Auditor, a Mr. John J. O'Donnell, and, incidentally, he is from Brooklyn.

SENATOR SYMINGTON: How long had he lived in Oregon?

MR. EARL: He moved there, I think, in 1946 or 1947.

SENATOR SYMINGTON: What year are you talking about now?

MR. EARL: I am talking about this last election, in the May primary. They financed him, and it is a matter of record, and I think your committee has the record, showing that the Oregon Joint Council of Teamsters contributed $4,784 to the campaign of John J. O'Donnell for position number one, the only contributor, the only single contributor to his campaign.

MR. KENNEDY: Did you receive the support of any labor organization?

MR. EARL: Yes, I received the support of all legitimate organized labor, and I think, their families. My campaign fund was $696.40, and I defeated Mr. O'Donnell by 54,000 votes.

MR. KENNEDY: Did they endorse you?

MR. EARL: No, sir, they did not.

MR. KENNEDY: Any other labor organizations?

MR. EARL: Yes, quite a few individual labor organizations did, but Mr. Crosby went to the Central Labor Council of Portland -- and incidentally you must realize we have over 200,000 working men in the city of Portland -- and through the Teamsters' pressure in bringing in a mass of delegates, Mr. O'Donnell was endorsed by organized labor, and Mr. Earl was elected.

Could I say just a couple of words about organized labor, Mr. Chairman?

THE CHAIRMAN: All right.

MR. EARL: I believe in organized labor, sincerely. Some of the men, if I may say so, that you had testifying before you today, or refusing to testify before you today, and some that we have in the Northwest, are prostitutes of labor. That is exactly what they are. They are prostitutes and they are parasites of labor. Honest, legitimate, bona fide labor organizations have no objections whatsoever to any one going in, looking at the books, getting the financial records or answering any questions concerning their operations.

This afternoon with me was Mr. Al Hartung, president of the Intern..tional Woodworkers of America, a man whom I served long with

in the union movement. I am expressing to you some of the views that he gave to me as to what he would do if he were asked questions. I say that is true, but, sir, here in the Northwest, and particularly in Portland, we have a situation where you have a fester and you have a scab over it, and the only way it is ever going to come out and get cleaned out is some government agency to lift that scab off and do a little surgery. I have held a very high position in labor. I was the top man in the State of Oregon for seven years, until I went to Korea at their request.

SENATOR SYMINGTON: Top man of what organization?

MR. EARL: In the CIO, sir. I can tell you this in all sincerity, that the way the Teamsters Union is constituted in the State of Oregon, wherein they have appointed representatives who are virtually Caesars, who can walk into a local union if it is unruly, take over the assets, put this local union into bankruptcy, all in the name of the general president. That is a bad situation, but that is what you have in the International Brotherhood of Teamsters.

I know whereof I am speaking because I fought with them too many years. Back in 1936, '37, '38 and into 1939, we had sawmills burned down in the State of Oregon by the teamsters, we had bombings by the teamsters. Specifically, the Dral Drycleaning Works was broken up.

(Senator Jackson entered the room).

MR. EARL: We had one man who was the top man of the teamsters in the State of Oregon go to jail for 12 years in the State penitentiary for arson, burning down a sawmill. He was trying to organize. We have had acid throwings and everything else. Now we have gotten into a phase in the State of Oregon where the teamsters' organizations are attempting to take over existing vice that did exist and, besides that, bring in other vice that did not exist. That is the record of that organization.

MR. CHAIRMAN: You speak of vice. Would you identify it?

MR. EARL: Yes. I speak of prostitution, of organized gambling, and various and sundry things, such as punch boards, pinball machines, and some other related activities.

THE CHAIRMAN: You said to bring in some vice that did not exist. You said to take over some which did exist and bring in some that did not exist. To what did you refer?

MR. EARL: From what I have been able to ascertain, sir, I refer to prostitution.

MR. KENNEDY: We will have other testimony and evidence on that.

THE CHAIRMAN: I just wanted to get clear.

MR. EARL: We had our violence in the 1938-1939 period, and now we have the corruption era we are going through. The only thing, sir, that will lift it, and I am pleading, and I hope you can do it, in a hearing in the city of Portland.

THE CHAIRMAN: I do not know what is going to happen. There are some ideas being expressed that some other committee should do this job, or maybe a new committee be created to do it. Whatever may occur, so far as I have anything to do with it, I assure you that my efforts will be in that direction.

MR. EARL: Sir, I am sure I am expressing the sentiments of all the good people of Portland when I ask that you come there and clean it up, because it is only through the glare of publicity that it will be cleaned up.

THE CHAIRMAN: I can appreciate from what you say that there may be some things there that need to be cleaned up that this committee, under its present jurisdiction and authority, would not have power to do anything about. But we have asked for additional powers. If they are granted, or if any other committee is vested with the powers that we seek, we certainly would be able to function and give you some assistance.

MR. EARL: I might say, sir, that I have not said a thing here that I have not said publicly to some officials of the Teamsters Union.

THE CHAIRMAN: You have not said anything that you have not said to them?

MR. EARL: I have not said anytning here that I have not told them to their face.

There is one other thing I would like to say to you, and that is this: They also attempted to have the Chief of Police discharged in the city of Portland. That is a matter of record. There are just a lot of things that have happened down there that I think your committee will become aware of.

I will be glad to answer any and all questions, sir. I have no lawyer. I promise not to invoke the fifth amendment on you.

SENATOR ERVIN: That is very refreshing.

MR. KENNEDY: Did they also attempt to get the organized punch boards, get into that phase of operation?

MR. EARL: I am not too well aware of it. There was a move made there, sir, but I can't explain it. Punch boards are illegal in the city of Portland, as such.

MR. KENNEDY: You do not know about any operations of the teamsters in that area, in punch boards?

MR. EARL: I was lobbied by Mr. Crosby to legalize the punch boards in public warehouses, and the entire City Council passed the amendment to the punch board ordinance. But punch boards are illegal. This was done at the request of the candy merchants who said they were shipping it outside the State, that is, the candy boards, not the money boards. But what their role is in it, I don't know. I don't have personal knowledge of that.

MR. KENNEDY: Were you offered, or did you receive any moneys during this period of time, to change your position on pinballs?

MR. EARL: Yes. I was offered. I was given the sum of $500 by a pinball operator in the city of Portland who had it in an ordinance - I believe it was some time late in 1953-this was in an envelope which contained a proposed ordinance, and I might say he got his $500 back. He didn't tell me that it was for a bribe. He did not say it was a gift. It was in there.

MR. KENNEDY: And that gentleman offered that money to you ultimately was taken into the Teamsters?

MR. EARL: He is a big pinball operator in the city and he is a member in good standing in the Teamsters' organization.

MR. KENNEDY: That is Mr. Gobel?

MR. EARL: Yes, William Gobel, of the Popular Amusement Company.

MR. KENNEDY: So you generally have any information about the attempts of the teamsters to take over vice in the city of Portland?

MR. EARL: No, sir, only what I have read and what I have listened to.

MR. KENNEDY: And the only personal experience you had as far as this was concerned was on the pinballs and the gambling?

MR. EARL: That is right.

MR. KENNEDY: Just one other question on Local 223, which is a pinball local --

MR. EARL: It is a catch-all local.

MR. KENNEDY: -- they are under trusteeship?

MR. EARL: I don't know whether they are or not. Their business agent is Mr. Lloyd Hildreth.

MR. KENNEDY: I might say they are under trusteeship.

We asked Mr. Hildreth how long they had been under trusteeship, and he said he didn't know.

SENATOR JACKSON: What is the meaning of "trusteeship"?

MR. KENNEDY: I believe Mr. Earl made a point about trusteeship.

MR. EARL: If I may, I will explain to you. I think I am correct. A trusteeship is where a local union is established, and has its bank accounts and has its offices, and then for some reason, the International union or the International president, in this case Mr. Beck, or maybe Mr. Brewster in Seattle, will issue a directive to his international representative saying, "you go in, put this in recievership and establish a trusteeship." And he can do it legally under their constitution.

SENATOR JACKSON: I understand this myself, but I wanted that for the record.

MR. EARL: The test and most concise thing to say is that the International union takes over the local union and operates it.

SENATOR JACKSON: You say that this catch-all union that has employees who have collective bargaining agreements, I guess, with pinball operators, is now under trusteeship?

MR. EARL: I don't know. Mr. Kennedy said it was.

MR. KENNEDY: Yes, it is.

SENATOR JACKSON: How long has it been under trusteeship?

MR. KENNEDY: We asked the representative of the union out there how long it had been under trusteeship and he said he did not know.

MR. EARL: When you have a trusteeship, you do not have meetings of the membership. But they do pay their dues.

SENATOR JACKSON: I believe it is important for the purpose of getting compliance on the part of the local union.

MR. EARL: It is also for the purpose of appointing delegates who can influence elections.

THE CHAIRMAN: All right, gentlemen, counsel says he has concluded.

Are there any questions?

SENATOR SYMINGTON: Yes, I have some questions.

Mr. Earl, when you were in the situation in Oregon, was there any teamster relationship obvious between the people in the Teamsters Union in Oregon in what you term, I believe it would be fair to characterize, though I am not sure you used the word "rackets" and other members of the Teamsters union outside of Oregon?

MR. EARL: I have no knowledge of that. I do know that the International representative of the Teamsters in Oregon was apparently mixed in to what we would call "rackets." Whether he was doing that at the behest of his immediate superior, Mr. Brewster, I have no knowledge. But I will tell you this, sir --

SENATOR SYMINGTON: Excuse me, if I may. You say the international representative, his immediate superior, Mr. Prewster. What is Mr. Brewster's position?

MR. EARL: Mr. Prewster is head of the Western Conference of Teamsters.

SENATOR SYMINGTON: When you said "head," what was his title?

MR. EARL: He succeeded Mr. Beck. He was president.

SENATOR SYMINGTON: President of the Western Conference of Teamsters?

MR. EARL: Yes, the eleven Western States, so called, and Mr. Crosby, the international representative in Oregon, told me he had just one superior officer, and that was Mr. Brewster, who had appointed him with the blessing of Mr. Beck, and who, incidentally, didn't even go to Oregon for four years after they had the burning of the sawmill. Mr. Beck stayed absent. He wouldn't come into the State. If he had, he would have been nabbed.

SENATOR SYMINGTON: This question of bringing vice in, then, was a local situation peculiar to Oregon and not connected with outside activities of the union, to the best of your knowledge?

MR. EARL: Well, sir, you have an odd situation, if I may explain it to you. You have vice in the city of Portland and have vice in any city. You had vice in the city of Portland being organized by persons who are very close to the teamsters. When I say that, I speak of Mr. McLaughlin and Mr. Maloney, who entered into the campaign in Oregon, who took it upon himself to elect a district attorney in our county, who is financed by teamster money. You have these men who are very close to Mr. Brewster, who were operating in the city of Portland.

SENATOR SYMINGTON: Who are the men?

MR. EARL: Mr. McLaughlin and Mr. Maloney.

SENATOR SYMINGTON: What did they do?

MR. EARL: Your committee can give you a better answer than I can. I say they are racketeers and hoodlums. What their actual profession is, I don't know.

SENATOR SYMINGTON: What was their relationship with the union?

MR. EARL: Mr. Maloney's relationship with the union was at

least such that he could get the editor of the paper, The Oregon Teamster, fired.

SENATOR SYMINGTON: But you do not know whether he had a title or position?

MR. EARL: I don't think he had a title.

MR. KENNEDY: He described himself as an organizer.

SENATOR SYMINGTON: Did that go for the other gentleman, too?

MR. EARL: I don't think he claimed anything particularly, except influence with the regime.

MR. KENNEDY: They came from Seattle, too, in addition, they came down into the political atmosphere in Portland from Seattle and took an active part in trying to elect a district attorney?

MR. EARL: They did elect a district attorney.

SENATOR SYMINGTON: That is all, Mr. Chairman.

THE CHAIRMAN: Is there anything else?

That is all, Mr. Earl.

MR. EARL: Thank you. I hope you do come to Portland, gentlemen. I would like to testify in public.

THE CHAIRMAN: If I have the authority, I assure you we will go there. If the opportunity develops, I will look forward with pleasure to visit the city.

The committee stands in recess, to resume tomorrow morning at ten o'clock in public session.

(Whereupon, at 6:15 p. m., the Committee recessed, with Senators McClellan, Symington, and Ervin present.)

[Filed Aug. 21, 1957] 80 DEFENDANT'S EXHIBIT NO. 15C

EXECUTIVE SESSION - CONFIDENTIAL

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TESTIMONY REGARDING THE PORTLAND, OREGON AREA

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FRIDAY, JANUARY 18, 1957

United States Senate,

Senate Permanent Subcommittee on Investigations of the Committee on Government Operations.

Washington, D. C.

The subcommittee met at 2:15 p. m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in room 357, Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

MEMBERS OF THE SUBCOMMITTEE PRESENT:

SENATOR JOHN L. McCLELLAN, Democrat, Arkansas.
SENATOR HENRY M. JACKSON, Democrat, Washington
SENATOR STUART SYMINGTON, Democrat, Missouri
SENATOR JOSEPH R. McCARTHY, Republican, Wisconsin
SENATOR KARL E. MUNDT, Republican, South Dakota

MEMBERS OF THE PROFESSIONAL STAFF PRESENT:

ROBERT F. KENNEDY, Chief Counsel to the Subcommittee.
JAMES N. JULIANA, Chief Counsel to the Minority
JEROME S. ADLERMAN, Assistant Counsel
RUTH Y.WATT, Chief Clerk.

PROCEEDINGS

THE CHAIRMAN: The subcommittee will be in order.

(Members of the Subcommittee present at the convening of the hearing were Senators McClellan, Symington, McCarthy, and Mundt.)

THE CHAIRMAN: Gentlemen, will you be sworn? Do you and each of you solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth and nothing but the truth, so help you God?

MR. TURNER: I do.

MR. LAMBERT: I do.

TESTIMONY OF WALLACE TURNER AND WILLIAM LAMBERT, NEWSPAPER REPORTERS FOR THE OREGONIAN, A NEWSPAPER IN PORTLAND, OREGON

THE CHAIRMAN: Will each of you state your name and your place of residence and your business or occupation for the record?

MR. TURNER: I am Wallace Turner. I am a reporter for the Oregonian, which is a newspaper published in Portland, and my address is 1941 Northwest 31st Avenue.

MR. LAMBERT: I am William Lambert, reporter for the Oregonian, and I live at 1667 Holly Street, West Linn, Oregon -- that is L-i-n-n--a suburb of Portland, and I have been a reporter for the Oregonian about six years.

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MR. KENNEDY: You have been in conference with the staff of this committee for a period of the past two months, is that correct?

MR. TURNER: Yes, sir.

MR. KENNEDY: Somewhat over a year ago, or approximately a year ago, you were contacted by Mr. James Elkins, out in Portland, Oregon. Could you tell the committee a little bit about what Jim Elkins is, and what he does, and what his reputation is?

SENATOR MUNDT: And the circumstances of your first meeting with him?

MR. TURNER: The first contact was through me. I had known Mr. Elkins for seven or eight years. He is in the rackets in Portland, and he is a racketeer, pure and simple. I hadn't seen him for about a year and a half. I needed some information from him, and I contacted him and saw he had aged since I saw him and I asked him what was the matter; had he been ill? He had been in trouble with the Teamsters. We didn't pursue that too much at the time.

I went ahead with the assignment I was on and I produced a story and I mentioned to my publisher that I had had this conversation with Mr. Elkins, and the publisher told me to go back and see him and get

the information that he had.

Then we began a series of delicate negotiations, would describe it better, in which I attempted to get the evidence to substantiate the story. That went on for a period of approximately two months. At the end of that time, the Oregonian began publication of a long series of articles laying out the charges which you will learn about.

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THE CHAIRMAN: You made a check against his reporting to you?

MR. TURNER: Absolutely.

THE CHAIRMAN: And found it could be substantiated?

MR. TURNER: Bill and I have traveled all over the western part of the United States making those checks, and I found no instance of anything pertinent to these matters where Mr. Elkins has deceived us. There were none.

MR. LAMPERT: We have done considerable amounts of investigative reporting, and in the course of that you tend to become rather cynical about dealing with hoodlums, and your reaction normally is that they are not going to tell you the truth unless they are pushed into a position where they have to.

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MR. KENNEDY: Do you feel there would be anything gained by this committee going into this matter; you people have written some articles on it, and also the District Attorney.

MR. TURNER: Yes, sir; I do. We have been here for two days now listening to your hearings, and unquestionably the matters that we have reported about, that we are so familiar with, should be investigated by you people.

THE CHAIRMAN: How would it compare with what has been disclosed here, or the obvious lack of disclosure?

MR. TURNER: It was disclosed in spite of those foul-ups; you disclosed it in spite of them. The thing in Portland, to us, appears to be much more dangerous than what you have brought out here. What you have brought out here, as you said, is putrid;it is a mess; and it involves a group of racketeers who attempt to own a small union.

What we found in Oregon was something that permeated the whole life of the community. We were able to slow it down by getting it nipped in the bud.

SENATOR SYMINGTON: By getting what?

MR. TURNER: When it was in the bud. Bill had studied very carefully their political manipulations and I think you would be interested in knowing a little how that goes.

MR. LAMBERT: You see, their tentacles reach into government, as you people certainly will find out. We found, for example, and I think we have established it certainly beyond a reasonable doubt, that the District Attorney was owned body and soul by the Teamsters; that is, by this group of Teamsters, and hoodlums who were working together, in an attempt to move into the vice picture in Portland.

One of them, a man named Thomas Emmett Maloney, who is a petty gambler and race-track figure from Seattle, was brought into Portland by Jim Elkins. Elkins was trying to get his pinball people into the Teamsters Union, because at that time there was a certain amount--Elkins was a friend of John Sweeney, who was a No. 2 man in the Western Conference of Teamsters. Here was Sweeney, purportedly a union leader, and a close intimate associate of a man of Elkins caliber, a man who was running the bootlegging joints, and gambling ventures, and that sort of thing.

It was strictly illegal, and I am sure he will so testify. He doesn't hide it. Then Maloney shows up in Portland and suddenly Maloney is a manager without portfolio of a candidate for District Attorney. The District Attorney is subsequently elected, the Teamsters switch their support behind this individual and the other man, his opponent, at the election, was strongly supported by the rest of labor.

This District Attorney who was elected was named William M. Langley, and today Langley is under indictment on two charges, as a result of the Grand Jury investigation which followed our expose. The charges are conspiracy to commit a felony and malfeasance.

MR. TURNER: I think we should say something, Bill, to these fellows about this: Now, it might appear to you, because there has been a Grand Jury investigation under the state authorities, that the state people are going to clear this up, and it will be all right. To us it appears that the state people will be able only to take action for violation of state laws. There will be no change except that the Teamsters who violated state law, and who can be shown to have done that to a trial jury, will go to jail. Someone else will move right in. The machinery exists and will continue to exist. It is our view that no one but the Congress of the United States can correct that.

MR. LAMBERT: Just recently, in the last election, the Mayor of Portland, Fred Petersen, who originally had had Teamster support, was defeated. He was defeated by a man named Terry Schrunk. He had been a sheriff of the Metropolitan County in which Portland lies. Schrunk was nominated by the Teamsters, and he is a close associate of Clyde Crosby, and his nominating petitions bore the names of about one-third of the necessary petitioners with Teamsters, and petitions were circulated in the Teamster Building, and we were unable at the time of our expose, to establish that this man, the sheriff who was running against the incumbent Mayor, was dishonest.

We are able to establish that at this point. We have turned the bulk of our material over to the Attorney General in hopes that the Attorney General who is handling the prosecution of these people in our county will present it to the Grand Jury.

We are particularly concerned about that because despite our expose stories, the Teamsters still manage to elect a Mayor and that Mayor controls a 700-man police force. The opportunity for continuance of the situation that we were fighting is apparent with that situation existing. So the job isn't done in Portland by a long shot.

MR. TURNER: In that connection, too, we know, of course, because we brought them to you, that Commissioner Earle testified, too. I assume he took up with you the matter of his opponent, and his opponent's complete financial reliance on the Teamsters Union. They

paid for his campaign completely. For no other reason than that, the Commissioner had refused to go along with the dictates of the Teamsters Union.

THE CHAIRMAN: Gentlemen, you appreciate this: What you say about political aspects of it may be true, but this committee, to go into it, I do not think should emphasize politics, but should emphasize it if it is a fact the connection between labor unions and graft and corruption and racketeering and control of a community, and the life of a community, and its morals and so forth. The politics of it should be incidental to the other.

SENATOR McCARTHY: We would be concerned with money paid out of union coffers for any politician.

SENATOR SYMINGTON: Now, may I respectfully say, Mr. Chairman, that I know you would not want the witnesses to hold back any information they felt was pertinent, if it did run into the political field.

THE CHAIRMAN: I am not saying that. I want to be sure not to get off into that, and neglect the other.

MR. TURNER: May I say if we had been in public session I would have phrased my remarks to you much different. I would never have mentioned the word, "politics."

MR. LAMBERT: We found this -- that Teamsters Union, our local experience has been that there is no partisanship as far as the organization is concerned. They go for individuals whom they think they are in a position to do something with. I am talking about a local level. We are not going into state politics or anything like that, because we haven't really explored that. We are talking about people like District Attorneys and that sort of thing.

THE CHAIRMAN: In other words, the political control of the community.

MR. LAMBERT: That is right, and particularly in the field of law enforcement. That is where it fits in tightly with this vice situation.

SENATOR MUNDT: I think that political operations are very pertinent because at the local level they can control the elected officials and

they can control the whole works.

THE CHAIRMAN: There is no question about it, but the point I am making is that I want to tie it in to unionism. That is where we are going to come into it if we come into it. I do not care if you are relating it. I want you to relate whatever you want to; but I want to keep that connection.

We are investigating labor union racketeering, and I want to keep the connection if there is the connection as you go along.

MR. TURNER: The remarkable thing to us about this story was the tie-in between Mr. Elkins and Mr. McLaughlin and Mr. Maloney. They would send these people around -- I mean Clyde Crosby and other people in the union in Portland would conduct their office in such a way as to make their power and their position available to the needs of this group that was trying to open up the vice operation in town.

Is there anything else you want from us?

THE CHAIRMAN: Thank you very much, and you may stand aside, and Mr. Elkins will come around, please.

Do you solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth and nothing but the truth, so help you God?

MR. ELKINS: I do.

TESTIMONY OF JAMES B. ELKINS, A RACKETEER IN PORTLAND, OREGON

THE CHAIRMAN: Be seated, please.

State your name and your place of residence and your business or occupation for the record, please, sir.

MR. ELKINS: James P. Elkins, 11834 Southeast Powel Boulevard, Portland, Oregon.

MR. KENNEDY: Mr. Elkins, you and I have had conversations over the period of the last couple of months, regarding your testimony here before the committee.

MR. ELKINS: Yes, sir.

MR. KENNEDY: Regarding some of the matters that you are expecting to cover here before the Committee.

MR. ELKINS: Yes, sir.

MR. KENNEDY: And you have agreed to tell the complete facts as far as the operations in Portland are concerned?

MR. ELKINS: That is right.

MR. KENNEDY: Would you tell the committee, first, and just sit back and relax, if you could just tell them, first, about what your business is in Portland.

MR. ELKINS: Well, I guess I am a racketeer in a way. I finance bootleg operations and gambling.

MR. KENNEDY: Do you have some legitimate operations?

MR. ELKINS: Yes, sir; I owned a slaughter house and sold that, and I owned a construction company and I got rid of that.

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MR. KENNEDY: You financed some of these gambling places in Portland?

MR. ELKINS: Yes, sir.

MR. KENNEDY: You have been doing that for a period of time, have you?

MR. ELKINS: Off and on for 10 years; yes, sir.

MR. KENNEDY: Also you had some slot machines that you ran?

MR. ELKINS: I did. That has been about eight years since I have run any slots.

MR. KENNEDY: And you operate some?

MR. ELKINS: I ran pinballs after that.

MR. KENNEDY: You run some after-hour places?

MR. ELKINS: That is right.

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MR. KENNEDY: Could you tell the committee a little bit, or how you first came to know Mr. Tom Maloney, and what the circumstances were, about knowing Tom Maloney? Now, I will repeat the names of two key people that I mentioned earlier. Tom Maloney and Joe

McLaughlin, and they are the ones who came down from Seattle, Washington, to Portland, Oregon, which I mentioned, and had the tie-up with the Teamsters.

Would you tell how you first came to know Tom Maloney, and what the circumstances were?

MR. ELKINS: Well, my brother took over the operating of my pinball route while I brought my wife to Baltimore, Maryland, and she had a cancer. I stayed away from the business until 1952. Well, in the first part of 1953, he was attempting to put pinball machines in the labor temple.

SENATOR SYMINGTON: You left to go to Baltimore in what year?

MR. ELKINS: In 1951, I believe it was.

SENATOR SYMINGTON: And you came back?

MR. ELKINS: The same year -- no, I didn't. It was 1951; yes it was.

SENATOR SYMINGTON: How long were you away from Portland due to your wife's illness?

MR. ELKINS: About four months altogether, but my wife passed away and I was away from my business probably a year and a half at the time. I had a six-year old youngster and I was nursing her and taking care of her.

SENATOR SYMINGTON: But the year and a half, part of it you were in Portland.

MR. ELKINS: In Portland and in the state; yes. I was back here three or four times, and my wife had some relatives in Baltimore.

MR. KENNEDY: In that connection, Mr. Elkins, pinball machines are gambling?

MR. ELKINS: They are not supposed to be, but they are.

MR. KENNEDY: And your brother was operating the pinballs while you were out of the state or while you were not able to pay attention to it?

MR. ELKINS: That is right. He is supposed to be watching out for the accounts, and it is a competitive business. They were voted out by the City Council in 1951, in Portland, Oregon, but the courts let

them remain in until just the last year.

MR. KENNEDY: The highest court was going to decide it?

MR. ELKINS: Yes, sir.

MR. KENNEDY: Your brother, while you were out, was trying to get these pinball machines in the labor temple?

MR. ELKINS: Yes, sir.

MR. KENNEDY: The labor temple is the center of the labor organizations?

MR. ELKINS: All but the Teamsters, and the Teamsters are not there, and they are across the street, on the east side of Portland.

MR. KENNEDY: Was there a problem about getting them into the labor temple because of the fact they were not organized?

MR. ELKINS: My brother and another outfit by the name of Terry, Stanley Terry, is a big operator. They were really fighting after I came back in the picture, and the labor temple had decided to put Service Machine Company, which is the name of the pinball company I own, decided to put the Service Machine Company pinballs in the labor temple.

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MR. KENNEDY: Perhaps I could summarize as we go along. Stanley Terry and your brother were rivals, and it was a question of them fighting over particular routes.

MR. ELKINS: Yes, over routes.

MR. KENNEDY: And this hatred got so intense that at one time Stanley Terry's people were about to either shoot or try to kill your brother?

MR. ELKINS: That is right.

MR. KENNEDY: At this point your brother left town, and you were there to talk to them, and they left without harming anyone?

MR. ELKINS: That is right.

MR. KENNEDY: Now, you are getting back to discussing what happened as far as the labor temple was concerned.

MR. ELKINS: In the labor temple, they sent word to me to go ahead and put the machines in, but my men would have to be unionized. Well, I tried to get them in the electrical union, and even the carpenters

union, or any union, and so I couldn't get them in there.

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MR. ELKINS: There wasn't any pinball people unionized. So I got acquainted or I went to Seattle, and I met a man that had formerly been in Portland, and he told me he would talk to Mr. Maloney, who was very close to Frank Brewster. So Mr. Maloney called me in Portland, and he came down, and introduced me to John Sweeney.

MR. KENNEDY: John Sweeney was the International Organizer of the Teamsters stationed in Portland, Oregon, at the time?

MR. ELKINS: At that time.

MR. KENNEDY: And Tom Maloney, you were told, was very close to Frank Brewster, who was Vice President of the Teamsters in charge of the 11 western states?

MR. ELKINS: Yes, sir.

MR. KENNEDY: And Maloney came down to see you in Portland, Oregon, and brought you in and introduced you to John Sweeney?

MR. ELKINS: That is correct.

MR. KENNEDY: Go ahead.

MR. ELKINS: He told me just to have whatever men I wanted to join go over and fill out applications and join. That I did, and then I put pinballs in the labor temple, I believe in October of 1953. If you will permit me, I will look and be sure on that date here.

MR. KENNEDY: It was October 6th, wasn't it?

MR. ELKINS: Yes, October 6th. Then Tom Maloney immediately wanted to be friendly.

MR. KENNEDY: Did you pay Tom Maloney money?

MR. ELKINS: $500.

MR. KENNEDY: For getting that done?

MR. ELKINS: Yes.

MR. KENNEDY: Did you pay him in cash?

MR. ELKINS: Yes, sir. I paid him $200 myself, and sent $300 over to a man by the name of Frank Malloy, and then called John Sweeney.

MR. KENNEDY: You will have to explain that again now. Frank

Malloy was in the Teamsters Union?

MR. ELKINS: He is a muscleman, and I don't know what you would call him.

MR. KENNEDY: He is an organizer for the Teamsters, and so you gave $200 to Tom Maloney and you sent $300 over to Maloney at the Teamsters headquarters, but because you wanted to show the Teamsters that you knew they were getting it, you sent it through one of the Teamsters officials, by the name of Malloy?

MR. ELKINS: That is right.

MR. KENNEDY: And then did you call John Sweeney?

MR. ELKINS: I called John Sweeney and I told him I had made a mistake, and instead of sending it to Maloney, I had sent it to Malloy, and would he correct the mistake. He said, I would be lucky if I didn't have to come up with $300 more and lost that $300, too, that he didn't know whether he could get it back for me or not, but he did get it back and it went to Maloney.

MR. KENNEDY: Now, what happened as far as those machines were concerned?

MR. ELKINS: John Sweeney called me and wanted to take me to lunch and he got very friendly. Maloney staged there in Portland a few days and he went on back to Seattle or Spokane, and I don't remember which. Then Sweeney kept wanting to go to lunch with me and sometimes I would take my brother along, and he got very friendly and I got worried, and I asked him what he was romancing me for.

He said well, they needed someone on my side of the fence to look after and help them out with their interests, and he didn't want any money or anything like that, that they just wanted to be friendly, and that he understood I put money up at election time, and there was no use of us supporting opposite people, and we would support the same people.

Well, I told him that was fine, but I don't say any more about it. He mentioned it again, and he would call even out of town, and ask me to meet him at the airport on several occasions. Well, the election was coming up. The primaries for District Attorney was one of the things.

There was a man by the name of John McCort, and Bill Langley running for District Attorney. Sweeney kept asking me which one to support. I never said which one to support. So the primaries came and went. A short time after the primaries, this fellow Langley made a pretty good showing.

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SENATOR SYMINGTON: Is Langley now the District Attorney?

MR. ELKINS: He is; yes, sir.

SENATOR JACKSON: He is under indictment, isn't he?

MR. ELKINS: Yes, sir.

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MR. KENNEDY: Go ahead; I am sorry.

MR. ELKINS: I still don't say who to support, so Sweeney and my brother and I go to lunch at Bard's, which is a fairly nice eating place on Southwest Burnside Street. He said, "I think that you are dragging your feet, and I think that you want John McCort to win."

Well, I said, "John is not too bad. He is honest, and at least you don't have to be a partner with him, and he doesn't take a partnership with you."

MR. KENNEDY: What does that mean?

MR. ELKINS: That means that he doesn't take a percentage of what you make. He keeps arresting you, and fining you, but he is not vindictive about it and you don't have to pay him some percentage of the amount that you make.

Well, then, John Sweeney called me long distance and I talked to him and he tells me he is coming in on the United Airlines, and for me to meet him at the airport.

MR. KENNEDY: Now, John Sweeney again is now promoted from organizer in the Portland area --

MR. ELKINS: He hadn't been promoted yet.

MR. KENNEDY: He was up in Seattle at the time?

MR. ELKINS: He was up there, and he called me to meet him at the airport, and when I met him at the airport he says that he was in

line to be promoted and that he wanted to introduce me to Clyde Crosby, who was a nice fellow. At that time, he didn't say definitely that Crosby would get his job, but he did tell me that Crosby would be put on -- there had been an appropriation of $8 million for a recreation center and they had appointed a board, I guess you would call it.

MR. KENNEDY: Could I explain that?

They had set aside a piece of property, or they were looking for a piece of property to set aside for educational and recreational purposes in Portland, and they had appropriated I don't know how much money -- $8 million -- in order to build this place.

SENATOR McCARTHY: A city project?

MR. KENNEDY: Yes, and there was a board made up of five members who were to select the site. Now, Mr. Sweeney, who had been the International Organizer of the Teamsters and whose headquarters were in Portland, but who operated throughout most of Oregon, was about to be promoted up into Seattle and be in charge of a larger area, and his successor was going to be Mr. Clyde C. Crosby, and Clyde Crosby, Sweeney told Elkins at this meeting at the airport, was going to go on this commission of five members to select the area for the educational-recreational place.

THE CHAIRMAN: Is that correct?

MR. ELKINS: That is correct. That is exactly it.

THE CHAIRMAN: All right.

MR. ELKINS: Then I thought the reason that he asked me, he mentioned the fact that Stanley Terry had gone to Clyde Crosby and told Mr. Crosby that he, Stan Terry, had enough power with the City Commission or "city dads" I think he called them, to get Clyde Crosby appointed on this commission.

Sweeney told me that he wanted me to know Stan Terry did not have anything to do with it and he wouldn't let Stan Terry belong to his union. He asked me what I thought Stanley Terry's position was with the present Mayor. It was not the present Mayor, but the Mayor at that time.

I said: "Well, I wouldn't know." He would have to find that out for himself, which later he told me that he had a connection with the Mayor's secretary and gave her candy occasionally, and he could get that information. Then when someone was going to be appointed to an important position, he would get word of it far enough in advance that he might be able to go to the person and make him think he would be of some help in getting the appointment.

They were all going to the race track, and he introduced me to Crosby, and I didn't go with them. He told me to get on the ball, and call Bill Langley, and have Bill Langley come up and talk to him.

MR. KENNEDY: Bill Langley was running for District Attorney?

MR. ELKINS: And that was between the primary and the general election.

MR. KENNEDY: And they had not decided yet who they were going to back between McCort and Langley?

MR. ELKINS: No.

MR. KENNEDY: Could you finish the part about the McCort and Langley as to how the Teamsters ultimately decided who they were going to back?

MR. ELKINS: McCort; the Central Labor Council endorsed McCort.

MR. KENNEDY: That is the labor unions in Portland endorsed McCort?

MR. ELKINS: That is right. So I went over and Sweeney was gone then and Crosby was still on the job and you want me to skip that part?

MR. KENNEDY: We will come back to it, but just trace that through and then we can come back.

MR. ELKINS: I went over and talked to Crosby and I asked him if he was going to support McCort or was he going to support Langley. He said they are going to support McCort, and I said, "Will you go to lunch with Langley? John Sweeney promised him that much, that he would support him, but actually if you go to lunch with him it will take him off my back."

MR. KENNEDY: You had been in business with Langley prior to that time?

MR. ELKINS: Yes.

MR. KENNEDY: You had a place that you operated with Langley?

MR. ELKINS: That is right.

MR. KENNEDY: Was that an after-hours joint that you operated?

MR. ELKINS: Well, no.

MR. KENNEDY: A gambling place?

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MR. KENNEDY: And the Teamsters still hadn't decided what they were going to do, but they were, according to your conversation with Crosby, they were inclined to back McCort, and you said, "Why don't you have lunch with Langley"?

MR. ELKINS: That is right, and he said, "I will, but wait and I will call Jim Higgins," and he did, and Higgins said, "No, we can't do that. We just now got on good terms with these other unions, and we can't take a chance on getting them upset."

SENATOR SYMINGTON: Who was Higgins with?

MR. ELKINS: He was with the Teamsters. I think that he controls the taxicabs, and I am not sure.

So he told me that they definitely had committed themselves to go with the Central Labor Council. I left and I went back to an attorney by the name of Henry Anthony and Bill Langley and they suggested I call Sweeney.

I said I wouldn't call Sweeney, but I said I would call the man who introduced me to Sweeney, and so I called Tom Maloney in Spokane. He told me, "I am making $50 a day and I will be glad to come over there and straighten this matter out." Tom Maloney came in the next day. He went over, Tom Maloney went over to Clyde Crosby, and Clyde told him now that I hadn't brought Bill Langley around in time, and that I hadn't seen that he went to any of their Teamsters picnics, and I had just waited too long.

So Tom Maloney called John Sweeney, and John Sweeney told Crosby that I hadn't waited too long, and to go along and go all out for Langley. Tom Maloney set it up, and brought, I believe, is it the Teamster boys over to my office and picked up some signs about a foot by 10-foot signs, and told them to see me every day and work closely with me on supporting or getting Bill Langley.

MR. KENNEDY: It was through your efforts that Maloney came down to Portland?

MR. ELKINS: Yes, sir.

MR. KENNEDY: And through Maloney, the Teamsters then switched from McCort to Langley?

MR. ELKINS: That is right.

MR. KENNEDY: Now, that was through the efforts of Maloney?

MR. ELKINS: That is correct.

MR. KENNEDY: During this time that Maloney was down there, did you pay him and pay his expenses?

MR. ELKINS: I paid him $50 a day.

MR. KENNEDY: While he was handling Langley's campaign?

MR. ELKINS: Yes, sir.

MR. KENNEDY: He handled Bill Langley's campaign?

MR. ELKINS: That is right.

MR. KENNEDY: Is that the end of that part of the story?

MR. ELKINS: I paid him, and I paid a fellow by the name of Holmes, and he said he had to have a $500 watch, and Frank Malloy had to have $200 for driving the sound truck, and Frank Malloy's wife had to have so much a day which I gave Tom Maloney the money to pay her.

MR. KENNEDY: Now, going back to your conversations with Sweeney when Clyde Crosby first was being appointed to this position, did he tell you subsequently that you were to work closely together, you and Crosby?

MR. ELKINS: He did, and he called my home and asked about eleven o'clock at night, and told me to come to his home, and to bring my wife, which I did. I believe it is on 39th and Tosner Street, one block over from Tosner Street.

I went there, and my wife sat in the living room with his wife, and he and I talked until 2:00 a. m., and he told me that he didn't want it made public, but he was taking the job, a bigger job, the one that Frank Brewster was going up the ladder, and he was taking Brewster's old job, and that he was putting Crosby in his position and that he wanted me to be very friendly with Clyde.

MR. KENNEDY: Going back to the switching, was that solely because of the fact that you brought Maloney down and brought him down and had him back Langley, that Teamsters then switched from McCort to Langley?

MR. ELKINS: That is right.

MR. KENNEDY: Was that clearly established in your conversation?

MR. ELKINS: Yes, they had to have something to hang their hat on, and so they looked around for a reason for switching, to give the Central Labor Council, and they decided they would give the reason that McCort played handball with Stan Terry.

MR. KENNEDY: Who is the pinball operator?

MR. ELKINS: Yes, and they claimed that Stan Terry gave McCort campaign money, which I don't believe he did.

SENATOR SYMINGTON: I would like to ask a question there.

What was the authority that Maloney had that would make it possible for him to switch?

MR. ELKINS: He called John Sweeney, and John Sweeney gave me his word prior to that, that he would back Langley.

SENATOR SYMINGTON: So Sweeney was the one who really through Maloney made the change, as a result of your talking to Maloney?

MR. ELKINS: I left that part out. I took Bill Langley at the time I met John Sweeney at the airport. I took Bill Langley over or told him to go over and talk to Sweeney, and Sweeney told him to come back in 10 days or have me bring him, and that at that time the Teamsters would endorse him. I did not take him back, and for some reason he didn't go back. John Sweeney, in the meantime, had left.

SENATOR SYMINGTON: I understand now. It is clear.

MR. ELKINS: A man by the name of Hanson was advising Bill Langley, and he, Mr. Hanson, didn't think much of the Teamsters at that point, because he felt that a Democrat would win, where I believe he told me if he went to China he would still win and that turned out to be a very close race, even with their help.

SENATOR SYMINGTON: Is Langley a Democrat or Republican?

MR. ELKINS: A Democrat.

MR. KENNEDY: Did Maloney indicate to you or you knew that Maloney was running Langley's campaign, that he brought him down to Seattle to run his campaign?

MR. ELKINS: I brought him down.

MR. KENNEDY: And Maloney ran Langley's campaign.

MR. ELKINS: Yes, on my money, and he came over to the office and he would get $500 the first time, and then in a few days he was back and wanted $500 more, and $200, and $500.

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MR. KENNEDY: Do you understand now, Mr. Elkins, that the reason that the Teamsters say that they switched from McCort to Langley was because you were in favor of McCort?

MR. ELKINS: Yes, I have heard that story, but there is a lot of ways. There are a lot of ways that can be disproved. That is a point blank lie. Tom Maloney, when it began to look like Bill Langley would win, he rushed back -- he waited until he did win, and he was turning in receipts to me for the money they were spending, and then after Langley won, he rushed back and picked up all of the receipts that I had.

He even went over to an Italian organization and picked up a $25 cancelled check that Hanson had given them, and they didn't want Hanson's name in there.

MR. KENNEDY: Why didn't they want his name on that?

MR. ELKINS: Because Hanson had a deal with an abortionist, and they didn't want the power split up, and he wanted if the abortionists were going to operate, he wanted them to come through Maloney and not through Hanson.

MR. KENNEDY: They started to get some money from the abortionists group out there?

MR. ELKINS: In the primaries; they put up some money for the primaries, and then Henry Hanson, when Maloney took over Bill Langley, he practically slept with him then. He and his family, figuratively speaking. Then they immediately got him out of town, and shipped him to California, and they didn't want him connected with anyone. I will tell you why in a little bit, because they wanted $5000 a month, or $6000.

SENATOR SYMINGTON: Who wanted $5000 a month?

MR. ELKINS: Maloney wanted that much a month, if the abortionists operated.

SENATOR SYMINGTON: An abortionist ring?

MR. ELKINS: He didn't care.

SENATOR SYMINGTON: Who would he get the $5000 or $6000 from?

MR. ELKINS: From Ruth Burnett and Dr. Dewey and there were two more, and I don't recollect their names.

SENATOR SYMINGTON: There was some relationship between them and this Mr. Hanson?

MR. ELKINS: That is right.

SENATOR McCARTHY: Just to get this clear, do I understand that Maloney was brought down by you with the knowledge and approval of Brewster?

MR. ELKINS: That is right.

SENATOR McCARTHY: And to your knowledge did Brewster know about these various dealings, for example the demand for $5000 and that sort of thing?

MR. ELKINS: I don't know whether he did or not know that. I wouldn't say he did or he didn't.

SENATOR McCARTHY: You don't know who was to get the $5000, whether Maloney was or Brewster was, or whether it was to be split up?

MR. ELKINS: Maloney told me that he would give me $1000 of it, and him, Langley, and McLaughlin would split it up among themselves, and I don't know what portion it would be. One time he would say he was

going to give Sweeney and Crosby a portion of it, and I don't believe he ever told me outright.

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MR. ELKINS: Bill Langley told me that he wanted Joe McLaughlin and Tom Maloney in the picture.

MR. KENNEDY: What picture would this be?

MR. ELKINS: That was the vice picture in Portland, to operate the gambling, and Langley said that the abortionists should be able to stand -- Portland should be able to stand four or five houses of prostitution.

SENATOR SYMINGTON: That was the elected District Attorney of Portland?

MR. ELKINS: That is right.

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MR. KENNEDY: You went up to Seattle, and why did Langley come up to Seattle?

MR. ELKINS: Because Tom Maloney wanted to talk to me in Seattle, with Langley. I couldn't figure out myself why the meeting was to be held there. The excuse he gave me was that someone might get wise about it in Portland. We wound up in a row.

MR. KENNEDY: What was the basis of the row?

MR. ELKINS: Well, Tom says, "I will call a madam."

MR. KENNEDY: Was that Ann Thompson?

MR. ELKINS: Yes. Tom Maloney told me, "I will call Ann Thompson and take you over and introduce you to her, and I want her to operate the houses."

MR. KENNEDY: She is a well known madam in Seattle, and he wanted her to operate the houses of prostitution in Portland?

MR. ELKINS: That is right.

MR. ELKINS: I just walked out. Langley tried to stop me, and I said, "You don't need me. Let's forget about the whorehouses for the time-being. Instead of having whorehouses, we will have call houses. I don't want any part of prostitution, period."

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MR. KENNEDY: Was there an agreement made between you and a fellow by the name of Budge Wright, who was a pinball operator, and the McLaughlin-Maloney group, to go into the pinball business together?

MR. ELKINS: That is correct.

MR. KENNEDY: That was the Acme Amusement Company?

MR. ELKINS: Yes.

MR. KENNEDY: During this period of time, the pinball operators put pinball machines in various bars and places around town?

MR. ELKINS: Yes.

MR. KENNEDY: Was the operation going to be that this was going to be the only unit that would be organized, that you might take other pinball operators in at a later time, but initially this would be the only one organized?

MR. ELKINS: That is right. When we got all the locations we wanted, then they would take the others in.

MR. KENNEDY: But this is the initial one that was organized?

MR. ELKINS: That is right.

MR. KENNEDY: Was this the operation that was agreed to by you people; You would go into a bar or a place where there was a pinball machine, and you go in to the man who owned the bar, the Teamsters would, this was an operation of the Teamsters, and they would say to him "You have to be organized," and he says "My machine is not organized. I will go to the man who owns this machine."

He would go to the man that owned the machine, and the man would say "I will try to get into the union." Then there was an agreement with Clyde Crosby that they would not allow the man into the union. Therefore, the man who ran the bar, in order to get his beer delivered, or anything delivered at his store, he would have to get organized, is that correct?

MR. ELKINS: That is correct.

MR. KENNEDY: So then he would go to the Acme Amusement Company and have to take their machines?

MR. ELKINS: That is right, or get picketed.

MR. KENNEDY. And, therefore, because of the power of the Teamsters, and the fact that these places all depended on the delivery of beer, all these places, you foresaw, would be closed, is that right?

MR. ELKINS: That is right.

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MR. KENNEDY: Did he agree to pay Frank Brewster a sum of money?

MR. ELKINS: He told me $10,000. I believe that is the figure.

MR. KENNEDY: Stan Terry told you that he was going to pay?

MR. ELKINS: That he did pay.

MR. KENNEDY: Did pay Frank Brewster $10,000?

MR. ELKINS: Yes.

MR. KENNEDY: During what period of time was this?

MR. ELKINS: That was 1955, when they were picketing his places.

MR. KENNEDY: Then, immediately after that, did Stan Terry, after the trip to Seattle, and after he told you he paid the $10,000, did he come back to Portland?

MR. ELKINS: Yes.

MR. KENNEDY: Was he accepted?

MR. ELKINS: Right into the union, yes.

MR. KENNEDY: He was accepted immediately into the union?

MR. ELKINS: That is right.

MR. KENNEDY: Because of the fact that he was accepted into the union, this busted up your company, because the operation of you being the only one that could be organized went out the window, is that correct?

MR. ELKINS: Yes.

MR. KENNEDY: And your company folded?

MR. ELKINS: Yes.

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SENATOR SYMINGTON: As I understand it from your testimony this afternoon, you were part of a group of people who were operating illegally in Portland, and that that group elected a district attorney, and that the district attorney, in effect, was elected and supported by the Teamsters?

MR. ELKINS: Correct.

SENATOR SYMINGTON: And that the Teamsters and the district attorney now are supporting all of this vice in Portland, is that correct?

MR. ELKINS: That is correct.

SENATOR SYMINGTON: You have been going into a lot of detail, but you have a mayor who has come into it -- I got that somewhere else-- you have a district attorney who has come into it. Is the police chief in it also?

MR. ELKINS: No.

SENATOR SYMINGTON: Well, then, just the two. The mayor, and this fellow Langley that you have so much dealings with. They are operating illegal places of various types and character in Portland under the guise of being honest government officials, and with the backing of the Teamsters, is that correct?

MR. ELKINS: That is correct.

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SENATOR McCARTHY: You have testified that in order to enforce the pinball deal, the Teamsters would strike a place, or picket it. Was it like the procedure followed in the case of the football sheets, the punch boards, or any of the other matters discussed?

MR. ELKINS: They didn't get started on the punch boards. But they were going to give this Neimur a union sticker to put on the punch boards the same as they put on the pinballs. They picketed the Mount Hood Cafe on Sixth Street for pinballs.

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MR. KENNEDY: You felt that what you wanted to do was to operate this town yourself and not have the Teamsters infringing on you; is that right?

MR. ELKINS: Yes. I didn't want the Teamsters for a partner, for one thing. They had made me out a liar and put so much heat on me that I couldn't operate, either. I felt that maybe if Sweeney and Brewster had the proof that the men they had sent in there to do this was lying to them all the way that maybe they would pull them out of there

and leave the town like it had always been. They had never attempted to take over the town before, but it looked like the minute --

SENATOR MUNDT: How do these tapes connect up with Brewster?

SENATOR SYMINGTON: Did you tell him about them?

MR. ELKINS: No, I got an appointment with Brewster.

MR. KENNEDY: You felt that if you brought these tapes up to Brewster, tapes showing that Maloney and McLaughlin and Langley were getting out of this, that Brewster would then realize that even he was being double-crossed by these people, and he would yank Maloney and McLaughlin out of there, and you could go back to your regular operation and the Teamsters could go back like they had been?

MR. ELKINS: That is right.

MR. KENNEDY: So you went up to see Brewster in Seattle?

MR. ELKINS: In Seattle, at the Teamsters Hall. I got there a few minutes early. There are three young men that look like wrestlers or fighters, or something, and they look me over from head to foot for three or four minutes, and then walk out, and then Brewster comes in and tells me to come to his office. I am looking around his office, and the first words he says to me is, "You don't need to be afraid of anything. My place is not bugged."

I said, "I don't give a hoop whether it is or isn't bugged." He said, "Well, before you say anything, I want to tell you I don't like you. "Well," he said, "I will put it this way. I don't like the people you represent." I said, "I don't represent no people. I just represent Jim Elkins."

He said, "I make Mayors and I make Chiefs of Police, and I break them just as fast as I make them." I said, "I don't argue about that." He said, "If you have made some tapes on any of my boys, Bill Langley and Crosby are my boys, if you have made any tapes on any of the boys that I have sent down there, you can rub them in your hair or you know what with them, and if you cause them any trouble, you might find yourself wading Lake Washington with a pair of concrete boots," or something like that.

SENATOR SYMINGTON: Was there anyone in the room besides you and him?

MR. ELKINS: No. I imagine he made a tape of it, though.

SENATOR MUNDT: What did you say to that when he said that?

MR. ELKINS: I said, "Well, there is no point in my talking. If you had sent McLaughlin down there alone, I might have got along with him. But Tom Maloney would tear everything up faster than I could do anything about it." He said, "I have fooled with Tom Maloney for 25 years, and he is a blabber-mouth" -- how did he say it? Anyway, he showed that he didn't think too much of Tom Maloney himself.

MR. KENNEDY: Did he say on Maloney, "I have set him up"?

MR. ELKINS: "I have set him up 20 times in 20 years and that blabber-mouth, blubber-mouthed so-and-so has not made a go of any of it, but Joe would be an asset for anything."

I said, "They didn't do bad for themselves down there." He said, "Nothing more than a peanut stand." I said, "I am not getting anywhere here."

SENATOR SYMINGTON: Joe is who?

MR. ELKINS: Joe McLaughlin.

SENATOR MUNDT: This conference was in Brewster's office in Seattle?

MR. ELKINS: That is right.

SENATOR SYMINGTON: Is that where the conversation ended?

MR. ELKINS: It ended right there. I left.

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TESTIMONY OF LEO PLOTKIN PORTLAND, OREGON

THE CHAIRMAN: State your name...

MR. PLOTKIN: Leo Plotkin.

THE CHAIRMAN: Your place of residence?

MR. POLTKIN: Portland, Oregon.

THE CHAIRMAN: And your business or occupation?

MR. PLOTKIN: Seaman.

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MR. KENNEDY: Mr. Plotkin, you and I have talked about this matter, first in Seattle and then here in Washington, D. C. ?

MR. PLOTKIN: Yes.

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MR. KENNEDY: We had a discussion about the fact that the information you gave in Seattle to me, and to Mr. Bellino initially, you did not give in full to Mr. Calabres when he interviewed you here. We had a discussion of that the other night?

MR. PLOTKIN: That is true.

MR. KENNEDY: I emphasized the importance of your telling the truth and the complete truth to this committee and there was nothing that would get anybody in more difficulty than if they did not come forth and tell the truth, the full truth and all the facts surrounding this matter. We have discussed that, have we not?

MR. PLOTKIN: Yes, we have.

SENATOR JACKSON: You understand you are under oath and if you testify falsely to any material matter, of course, it is perjury which is a felony.

MR. PLOTKIN: I understand.

MR. KENNEDY: What is your address in Portland?

MR. PLOTKIN: 1022 Southwest Stark.

MR. KENNEDY: Do you know Mr. Tom Maloney?

MR. PLOTKIN: Yes.

MR. KENNEDY: And you have known him for approximately 20 years?

MR. PLOTKIN: Yes, sir.

MR. KENNEDY: And you knew Tom Maloney when he was in Portland, Oregon?

MR. PLOTKIN: Yes, I did.

MR. KENNEDY: What connection did you have with him down there? In the first place, what did he say he was doing in Portland, Oregon?

MR. PLOTKIN: Well, when I first heard from Mr. Maloney he asked me to come up to the hotel to speak to him.

SENATOR JACKSON: When was that?

MR. PLOTKIN: I believe it was around March of 1955.

SENATOR JACKSON: That is the first time you ever met Mr. Maloney?

MR. PLOTKIN: No. I have known him for about twenty years, but in the City of Portland.

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SENATOR JACKSON: What business were you in?

MR. PLOTKIN: I was working in the jewelry business there at that time.

MR. KENNEDY: What did he tell you?

MR. PLOTKIN: He asked me to meet him at the hotel, which I did. He asked me what I had been doing and I told him at the moment I was not doing anything. Then he went into telling me that he had been active in a campaign in the City of Portland in reference to electing a District Attorney and that because of the fact that he had known me for such a length of time, he thought perhaps he might be able to do something for me. When, he did not know, but it would be shortly.

THE CHAIRMAN: What did he ultimately indicate that he could do for you?

MR. PLOTKIN: Well, he asked me if I would be interested in working in an after-hours spot. I asked him in which capacity. "Well," he said, "perhaps just walking the floor counting the money and so forth."

MR. KENNEDY: How did he say that he could operate this after-hours spot?

MR. PLOTKIN: How he could?

MR. KENNEDY: Yes.

MR. PLOTKIN: It all came about in this manner: I asked him how he got ahold of me, how he knew where I was, and he said that he had asked Mr. Elkins if he knew me and Mr. Elkins said that he did. He asked Mr. Elkins what I was doing and evidently Mr. Elkins told him I was not doing anything at the moment.

He says, "How come he isn't?" This is Mr. Maloney speaking. He said, "How come he isn't"? and he said, "I have no idea." So that was the manner in which he approached me, that he could perhaps do something for me because of his friendship, perhaps, with the district attorney.

MR. KENNEDY: When you say "perhaps," let us get down to actual figures and circumstances and what he said to you. Let us not use "possibly" or "perhaps" if he made any statement to you.

MR. PLOTKIN: Yes, he did. He said he was very active in the campaign for the election of Mr. Langley as district attorney.

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MR. KENNEDY: Go ahead with whatever other conversations you had.

MR. PLOTKIN: Well, he said that he could contact me later in reference to going to work. About a month or so later he did contact me at the hotel where I live.

MR. KENNEDY: What did he say to you then?

MR. PLOTKIN: He said he would like to see me. I said, "Surely, that will be fine. Where can I meet you"? I said, "Well, how about the Desert Room. It is only a couple of blocks from where I live." He asked me where it was and I told him and I met Mr. Maloney at the Desert Room in Portland, Oregon.

MR. KENNEDY: What conversation did you have there?

MR. PLOTKIN: He said that I would be getting a telephone call in reference to going to work for Swede Ferguson in an after-hours place.

MR. KENNEDY: Did you ultin ately go to work for Ferguson?

MR. PLOTKIN: Yes. I either received a call from Mr. Ferguson in reference to going to work there -- I do remember that Mr. Ferguson did come into the Desert Room and talk to me, either before the phone call or after the phone call, I do not know which. But Mr. Ferguson did ask me to come to work.

MR. KENNEDY: Did you go to work there?

MR. PLOTKIN: Yes, I did.

MR. KENNEDY: Did you also go into the operation of being a runner for this football pool, whatever it is, or was that subsequent?

MR. PLOTKIN: Yes, it was.

MR. KENNEDY: Then tell what you did as far as this first gentleman was concerned.

MR. PLOTKIN: In reference to Mr. Ferguson?

MR. KENNEDY: Yes.

MR. PLOTKIN: Well, I immediately went to work for Mr. Ferguson that particular night and asked him what my duties would be. He said, "Oh, just look around and see what is going on and we will discuss that later."

MR. KENNEDY: How much did you get paid by Ferguson at the time?

MR. PLOTKIN: I would go to work at 2:30 and get off at 6:00 and I would receive $15 a day. But unbeknowns to Mr. Ferguson, in a conversation with Mr. Maloney which I did not bring out, was the fact that I was to be taken care of if the place would make money.

MR. KENNEDY: And were you ever taken care of?

MR. PLOTKIN: Yes, I received some money from Mr. Maloney.

MR. KENNEDY: How much did you receive from Mr. Maloney?

MR. PLOTKIN: In reference to the operation of the place, $150.

SENATOR SYMINGTON: $150 all told?

MR. PLOTKIN: Yes, sir.

SENATOR SYMINGTON: For what period?

MR. PLOTKIN: From the period of, I believe it was, June 24th until October 28th.

SENATOR SYMINGTON: 1955?

MR. PLOTKIN: Yes, sir.

SENATOR SYMINGTON: You made $15 a day?

MR. PLOTKIN: Yes, sir.

SENATOR SYMINGTON: How many days a week did you work?

MR. PLOTKIN: I worked seven days a week.

SENATOR SYMINGTON: So you got $105 a week, and at the end of

the time you got a $150 bonus, right?

MR. PLOTKIN: Yes, for that period.

SENATOR SYMINGTON: Or additional money, whatever you call it.

MR. PLOTKIN: Yes.

MR. KENNEDY: You were working with Maloney during this period of time, you were associated with him or saw him frequently?

MR. PLOTKIN: I saw Mr. Maloney on a number of occasions.

MR. KENNEDY: Did you see him at the Desert Room?

MR. PLOTKIN: Had I seen him?

MR. KENNEDY: Did you see him up there?

MR. PLOTKIN: Yes, I saw him there.

MR. KENNEDY: Did you see him during this period of time? Did you have much contact with him?

MR. PLOTKIN: Yes, I have seen him on a number of occasions.

MR. KENNEDY: Did you have any other connections with him?

MR. PLOTKIN: He asked me if I would be interested in running a basketball or football pool.

MR. KENNEDY: What did you do on that?

MR. PLOTKIN: He asked me to meet him at a place called the Rialto Billiards, which was operated by Roy Archer. He asked me to go up there the following morning when I got through working. At that time I was working in the after-hours place. I did that. I came up there about 7:30 or a quarter to eight in the morning. At that time, I met Bob Archer.

Bob Archer I believe his name is, yes. We started to discuss the basketball pool at that time.

MR. KENNEDY: So what did you do?

MR. PLOTKIN: He asked me if it would be possible to get my locations for them or which would be the best locations in the city, where to place these cards. I told him of three or four spots in the city which would be good for that particular type of business.

MR. KENNEDY: Did you go to any of those places?

MR. PLOTKIN: Yes, I went to one.

MR. KENNEDY: Which one did you go to?

MR. PLOTKIN: I believe it was called the Fourth Avenue Cigar Store.

MR. KENNEDY: At that time, during the period of time that you were being associated with Maloney, that you saw Maloney at the Desert Room, did Mr. Maloney say what other connections he had?

MR. PLOTKIN: The only connection he stated to me was the fact that he had connections with Mr. Elkins and District Attorney Langley.

MR. KENNEDY: What did he say about his connections with the International Brotherhood of Teamsters?

(Senator Jackson left the room.)

MR. PLOTKIN: He told me at one time that Frank Brewster was a friend of his. He said, "Do you know that fellow up at Long Acres"? and I said, "Yes, I know who Mr. Brewster is." Then he said, "I have a good friend Sweeney at Seattle."

SENATOR SYMINGTON: What is Long Acres?

MR. PLOTKIN: That is a race track.

MR. KENNEDY: Did he tell you that he was connected with the Teamsters?

MR. PLOTKIN: Well, he told me he had some associations with the Teamsters, yes.

* * * * *

MR. KENNEDY: Did he tell you that through the connection with the Teamsters that the Teamsters were anxious to get rid of Purcell, the chief of police?

MR. PLOTKIN: He might have mentioned that at one time, yes.

MR. KENNEDY: That the Teamsters were anxious to get rid of the chief of police?

MR. PLOTKIN: Yes.

MR. KENNEDY: Did he say this was because Purcell, the chief of police, was uncooperative with his ventures?

MR. PLOTKIN: No, sir.

MR. KENNEDY: Did he say because Purcell was uncooperative?

MR. PLOTKIN: That could have been the word, yes.

* * * * *

MR. KENNEDY: Did he also say this about the mayor, Peterson, that Peterson was uncooperative?

MR. PLOTKIN: No, I do not believe so.

MR. KENNEDY: Are you sure of that?

MR. PLOTKIN: I believe so.

MR. KENNEDY: You did not tell Mr. Pellino and myself out in Seattle that the mayor was also uncooperative?

MR. PLOTKIN: I do not believe I did.

MR. KENNEDY: That the Teamsters felt that they could not back the mayor this time because he was uncooperative?

MR. PLOTKIN: No, sir.

* * * * *

MR. KENNEDY: Let me ask you this: Did you ever hear that the Teamsters were displeased with the chief of police?

MR. PLOTKIN: Yes. As a matter of fact I read it in the newspapers.

MR. KENNEDY: I am not talking about that. Prior to that, did you ever hear that the Teamsters were displeased with the chief of police?

MR. PLOTKIN: The Teamsters themselves, no, sir.

MR. KENNEDY: Did Tom Maloney ever tell you that the Teamsters wanted to get rid of the chief of police?

MR. PLOTKIN: No, sir.

MR. KENNEDY: They never mentioned that to you?

MR. PLOTKIN: No, sir.

MR. KENNEDY: They never mentioned that they were going to send someone to the mayor to get rid of the chief of police?

MR. PLOTKIN: No, sir.

MR. KENNEDY: You never heard that at all?

MR. PLOTKIN: No, sir. I never had.

MR. KENNEDY: How was Maloney going to get rid of the chief of police?

MR. PLOTKIN: That I do not know.

MR. KENNEDY: Mr. Plotkin, you are not telling the truth. You have just told us that Maloney said he was going to get rid of the chief of police.

MR. PLOTKIN: Yes.

MR. KENNEDY: How was he going to do it?

MR. PLOTKIN: That I do not know. I have no idea.

MR. KENNEDY: Did he ever mention to you his connection with the Teamsters?

MR. PLOTKIN: He told me that he was friendly with Mr. Brewster and a John Sweeney in Seattle and that he also knew a Clyde Crosby.

MR. KENNEDY: That is in contrast to the testimony that you gave us in Seattle.

MR. PLOTKIN: I do not believe it is.

MR. KENNEDY: Mr. Calabrese, also down in the office, did he not say "through the connections with the Teamsters"?

In the first place, when Mr. Plotkin talked to you, did he say that Tom Maloney never mentioned Teamsters?

MR. CALABRESE: That is correct.

MR. KENNEDY: And then, when I came into the room and read a statement that he made to Mr. Bellino and I, did he change his testimony and say that Tom Maloney mentioned Teamsters?

MR. CALABRESE: That is true.

MR. KENNEDY: Did he not say through connection with the Teamsters they were dissatisfied with the chief of police?

MR. CALABRESE: Yes. I believe that is true.

MR. PLOTKIN: But in reference to that, Mr. Kennedy, that was the first time we have had any disagreement in anything I have said.

MR. KENNEDY: I was walking down the hall on my way home and Mr. Calabrese said that is what you said and I went back into the room because I could not believe it because it was in direct contrast to what you told Mr. Bellino and myself.

THE CHAIRMAN: Mr. Plotkin, although this is an executive hearing of the committee, you are under oath.

MR. PLOTKIN: I understand.

THE CHAIRMAN: If you do understand, all right. I do not want you to tell anything that is not true. But if you do impose on this committee by perjury, then it may have its compensation.

MR. CALABRESE: I will say this, that Mr. Plotkin admitted, after Mr. Kennedy left, that he had hedged on telling me nat relation Maloney claimed he had with the union. He said he had hedged on it, that he had not told the whole truth.

THE CHAIRMAN: Do you want to tell the whole truth now?

MR. PLOTKIN: I have, Senator. I spoke to the gentleman, Mr. Calabrese there, and I am sure there is a disagreement in the statement I made to Mr. Kennedy in reference to the T amsters taking over the city of Portland.

THE CHAIRMAN: Did you make such statement?

MR. PLOTKIN: Not in that manner, no, sir.

THE CHAIRMAN: All ri it. What manner?

MR. PLOTKIN: I have as far as Mr. Maloney and the district attorney, yes.

THE CHAIRMAN: You have made it as to them. Is that true?

MR. PLOTKIN: I thought perhaps that was the parties I was speaking of.

THE CHAIRMAN: In other words, that the district attorney and Maloney had made this statement?

MR. PLOTKIN: Mr. Maloney made the statement to me.

THE CHAIR N: Maloney made the statement to you that he and the district attorn y anted to get rid of the mayor?

MR. PLOTKIN: That is true.

THE CHAIRMAN: He did make that statement to you?

MR. PLOTKIN: That is right.

THE CHAIRMAN: It was based on the fact that the mayor was not cooperating with them in permitting them to operate those vices gambling or whatever it was that was involved, the rackets they were in, is that

correct?

MR. PLOTKIN: I think that is true, yes, sir.

MR. KENNEDY: Did Maloney say that he was going to make any contact with the mayor about getting rid of the chief of police?

MR. PLOTKIN: Not to me, no, sir.

MR. KENNEDY: When Mr. Bellino and I wrote this memorandum and put down, "He stated," meaning you, "Maloney said he was having the mayor get rid of Purcell." we were just making that up?

MR. PLOTKIN: No, sir. I made that statement.

MR. KENNEDY: I just asked you about that.

MR. PLOTKIN: Yes, he was.

MR. KENNEDY: I just asked you that.

THE CHAIRMAN: Maloney made that statement?

MR. PLOTKIN: Yes, sir.

MR. KENNEDY: Did he tell you of his connections with the Teamsters?

MR. PLOTKIN: Yes, sir.

MR. KENNEDY: Did he tell you that he was associated with the Teamsters?

MR. PLOTKIN: In reference to a campaign, yes.

MR. KENNEDY: Did he tell you that he was associated with the Teamsters at that time, that he had very close contacts with the Teamsters?

MR. PLOTKIN: Yes, he has close contacts.

MR. KENNEDY: Including Brewster?

MR. PLOTKIN: That is one of the gentlemen he gave reference to.

THE CHAIRMAN: That he had close contact to?

MR. PLOTKIN: Yes, sir.

* * * * *

MR. KENNEDY: Regarding prostitution, did you have any conversations with Maloney about Langley's position on houses of prostitution?

MR. PLOTKIN: Yes, I did.

MR. KENNEDY: Would you tell that?

MR. PLOTKIN: Well, Mr. Maloney told me, he said that the kid did not want anything to do whatsoever with prostitution.

MR. KENNEDY: Who is the kid?

MR. PLOTKIN: Mr. Langley, the district attorney.

MR. KENNEDY: He said he did not want to have anything to do with houses of prostitution?

MR. PLOTKIN: That is right.

SENATOR SYMINGTON: How old is he? How old is Mr. Langley?

MR. PLOTKIN: I do not know.

SENATOR SYMINGTON: Roughly, how old is he?

MR. PLOTKIN: I would say roughly 42 or 43. I really do not know, Senator.

MR. KENNEDY: Go ahead.

MR. PLOTKIN: He said that under the present operation of these houses of prostitution, which amounted to perhaps 15 to 18, he said the kid is not going to go for that, but he would go for four or five houses, because even though he did not believe in a wide-open town, he felt that houses of prostitution were a necessary evil and that he was going to do something on the closure of these other establishments amounting to perhaps 13 or 14 that were operating in the City of Portland at the time.

MR. KENNEDY: He said, therefore, that although he did not want an open town, he did not mind a few houses of prostitution operating?

MR. PLOTKIN: That is true. He said that he was using his office as a stepping stone for perhaps a better and finer position in the forthcoming election.

MR. KENNEDY: Tell me this: Getting back to Maloney's connections with the Teamsters on the football sheets, were there any statements made regarding the football sheets that the Teamsters or the Teamsters Union was going to be able to assist in the placing of these football sheets?

MR. PLOTKIN: No, sir, not to me.

MR. KENNEDY: Did you say that, regarding the football sheets,

Maloney threw his weight around regarding the union officials?

MR. PLOTKIN: Not me.

* * * * *

MR. KENNEDY: Did you hear that he was mentioning the union to someone else? Did you ever hear, during this period of time, that he was throwing his weight around with the union?

MR. PLOTKIN: Yes. There have been a few occasions, I should say one or two occasions, where Mr. Maloney was throwing his weight around, of his friendship with union officials, yes.

MR. KENNEDY: Did you hear specifically in connection with football sheets and the placement of football sheets that he was throwing his weight around in the placement of football sheets, throwing his weight around with union officials?

MR. PLOTKIN: No, sir, not with union officials.

MR. KENNEDY: You never heard that?

MR. PLOTKIN: No, sir.

* * * * *

MR. KENNEDY: I am going back again to the question of whether Mr. Maloney ever discussed with you his contacts with the Teamsters and the power the teamsters had as far as operating any of these joints is concerned. Did he ever mention that to you or mention it in your presence?

MR. PLOTKIN: He mentioned it one evening at an after-hours place on Third Avenue, yes.

MR. KENNEDY: Would you relate to the committee what occurred?

MR. PLOTKIN: Mr. Maloney came into this place and walked over to a secluded corner and asked to see me. I went over and sat down with him. I believe he called Swede over, either in my presence or -- I think he did, yes.

Swede came over and he told Swede, "If you don't run this joint in a clean manner, I, as well as the Teamsters, are going to fold it up."

MR. KENNEDY: What did he mean a clean manner?

MR. PLOTKIN: Well, there was prostitution running in and out of the establishment which I reported to both Mr. Elkins and to Mr. Maloney and I was very much against it.

* * * * * *

[Served Feb. 20, 1957]
[4 p.m.]

DEFENDANT'S EXHIBIT NO. 16

UNITED STATES OF AMERICA

Congress of the United States

To Local 174, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, General Teamsters, Seattle, Washington

Greeting:

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to appear before the SENATE SELECT Committee on IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD of the Senate of the United States, on forthwith, 195 ,**at their committee room 101 Senate Office Building, Washington, D. C., then and there to testify what you may know relative to the subject matters under consideration by said committee, and produce the books and records of Local 174, General Teamsters, I. B. of T., C. W. & H., for the period from January 1, 1949 to December 31, 1955, including cash receipts and disbursements, canceled checks, check book stubs, general ledgers, bills and invoices, bank statements, correspondence files, copy of reports to Internal Revenue Dept., copy of reports to U. S. Department of Labor, memoranda, minutes of meetings and organization expense data.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To Carmine S. Bellino to serve and return.

Given under my hand, by order of the committee, this 8th day of February, in the year of our Lord one thousand nine hundred and fifty-seven.

/s/ John L. McClellan
Chairman, Senate Select Committee on Improper Activities in the Labor or Management Field.

2/27/57 - The appearance of Mr. Geo. Cavano in Washington will not be required at this time however, this subpoena to remain in effect and Mr. Cavano will be advised as to the time of his appearance in Washington, D. C. or wherever called to by the Chairman and also what records to bring with him.

[Filed Aug. 21, 1957] DEFENDANT'S EXHIBIT NO. 20

EXECUTIVE SESSION - CONFIDENTIAL

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CONSIDERATION OF CONTEMPT CITATIONS ON FRANK BREWSTER, EINAR O. MOHN, NUGENT LaPOMA AND HARRY REISS

- - - -

THURSDAY, FEBRUARY 7, 1957

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United States Senate,
Committee on Government Operations
Washington, D. C.

The committee met at 10 a. m., in executive session, pursuant to notice, in Room 357 of the Senate Office Building, Senator John L. McClellan (chairman) presiding.

Present: Senators McClellan, Symington, Thurmond, Blakley, McCarthy, Mundt, Smith, Martin and Curtis.

Present also: Walter L. Reynolds, Chief Clerk of the Committee on Governmental Operations, Eli E. Nobleman, Richard J. O'Melia, Miles Scull, Jr., Professional Staff Members, and Ann M. Grickis, Assistant Chief Clerk.

Present also: Robert F. Kennedy, Chief Counsel to the Senate Permanent Subcommittee on Investigations, and Ruth Y. Watt, Chief Clerk to the Subcommittee.

The Chairman. The committee will be in order. A quorum of the committee is present at this time.

(Present at the opening of the session were Senators McClellan,

Symington, Thurmond, Blakley, Smith, McCarthy, and Curtis. The following proxies were present at the convening of the meeting, and the originals of these proxies are bound into the back of the original of these proceedings:

"February 6, 1957

"Honorable John L. McClellan
"Chairman
"Government Operations Committee
"United States Senate
"Washington, D. C.

"Dear Mr. Chairman:

"I will be out of town from Thursday, February 7 to and including Wednesday, February 13, 1957.

"During my absence this will authorize you to cast my vote in favor of contempt citations: Frank W. Brewster, Einar O. Mohn, Nugent LaPoma, and Harry Reiss, in connection with the hearings held by the Senate Permanent Subcommittee on Investigations on January 16, 17, 18, 19, 1957.

"I wish to condition my vote in accordance with the attached statement which I would like to make a part of the official record.

"Sincerely yours,

(Signed) Henry M. Jackson

"Henry M. Jackson, U.S.S."

"Honorable John L. McClellan
"Chairman
"Committee on Government Operations
"United States Senate
"Washington 25, D. C.

"Dear Mr. Chairman:

"I will be unable to attend the Executive Session of the Committee on Government Operations to be held on Thursday morning, February 7, 1957 at 10:00 a.m.

"This will authorize you to cast my vote in favor of contempt citations: Frank W. Brewster, Einar O. Mohn, Nugent LaPoma, and Harry Reiss, in connection with the hearings held by the Senate

Permanent Subcommittee on Investigations on January 16, 17, 18, 19, 1957.

"Sincerely yours,

(Signed) Sam J. Ervin, Jr.

"Sam J. Ervin, Jr., U.S.S."

"February 6, 1957

"Honorable John L. McClellan, Chairman
"Committee on Government Operations
"United States Senate
"Washington, D. C.

"Dear Mr. Chairman:

"I will be unable to attend the Executive Session of the Committee on Government Operations scheduled to be held Thursday morning, February 7, 1957, at 10:00 A. M.

"This will authorize you to cast my vote in favor of contempt citations: Frank W. Brewster, Einar O. Mohn, Nugent LaPoma, and Harry Reiss, in connection with the hearings held by the Senate Permanent Subcommittee on Investigations on January 16, 17, 18, and 19, 1957.

"Sincerely yours,

(Signed) Chapman Revercomb

"Chapman Revercomb"

"February 6, 1957

"Honorable John L. McClellan
"Chairman
"Committee on Government Operations
"United States Senate
"Washington 25, D. C.

"Dear Mr. Chairman:

"I will be unable to attend the executive session of the Committee on Government Operations scheduled to be held on Thursday morning, February 7, 1957, at 10:00 a. m.

"This will authorize you to cast my vote in favor of contempt citations: Frank W. Brewster, Einar O. Mohn, Nugent LaPoma, and Harry Reiss, in connection with the hearings held by the Senate Permanent Subcommittee on Investigations on January 16, 17, 18 and 19, 1957.

"Sincerely yours,

(Signed) Karl E. Mundt

"Karl E. Mundt"

Senator Symington. I hereby move, Mr. Chairman, that we cite for contempt Frank Brewster, Einar O. Mohn, Nugent LaPoma and Harry Reiss, and that the proper resolution and report be filed in the Senate.

Senator McCarthy. Second the motion.

The Chairman. We will call the roll.

Mr. Reynolds. Mr. Symington.

Senator Symington. Aye.

Mr. Reynolds. Mr. Thurmond.

Senator Thurmond. Aye

Mr. Reynolds. Mr. Blakey

Senator Blakey. Aye.

Mr. Reynolds. Mr. McCarthy

Senator McCarthy. Aye.

Mr. Reynolds. Mrs. Smith.

Senator Smith. Aye.

Mr. Reynolds. Mr. Curtis.

Senator Curtis. Aye.

Mr. Reynolds. Mr. Chairman.

The Chairman. Aye.

Mr. Reynolds. Mr. Jackson.

The Chairman. I have a proxy from Senator Jackson which the Chair will file under the rules of the committee, and Senator Jackson votes "aye". His proxy and his statement accompanying his proxy will be made a part of the minutes of the meeting.

(The statement of Senator Jackson is as follows:)

"Congress has the right to obtain all pertinent information necessary to do its job. I will, therefore, vote to cite for contempt, without exception, all those who refused to give such information; provided however: that if these individuals volunteer to appear forthwith before either the Permanent Subcommittee on Investigations or the Select Committee now being set up and will give to such committee or committees all relevant information heretofore requested, they will have purged themselves of the contempt. The contempt process is not a punitive device as such. It is a procedure of last resort. Its purpose is to obtain compliance with a legitimate legislative objective. I do not believe that we here should be interested in the technicalities as to which committee should receive the information. What is important is that the Congress should receive this information so that it can do its legislative job." Mr. Reynolds. Mr. Mundt.

The Chairman. I have a proxy here from Senator Mundt, who votes "aye", and his proxy will be made a part of the record.

Mr. Reynolds. Mr. Ervin.

The Chairman. I have a proxy from Senator Ervin who votes "aye," and his proxy will be made a part of the minutes of the meeting.

Mr. Reynolds. Mr. Revercomb.

The Chairman. I also have a proxy from Senator Revercomb who votes "aye", and his proxy will be recorded in the minutes of the meeting.

Mr. Reynolds, will you announce the vote?

Mr. Reynolds. The vote is eleven to nothing, Mr. Chairman.

The Chairman. The motion is carried. I would also like to have the permission of the committee to record the votes of the other two members of the committee at any time during the day if they wish to have their votes recorded. Without objection, that will be done.

Is there anything further to come before the committee at this time?

(Senator Mundt entered the meeting room.)

The Chairman. Senator Mundt, I believe you are familiar with these reports on these contempt citations. Did you want to record your vote in person instead of by proxy?

Senator Mundt. Mr. Chairman, I would like to have my vote recorded as "aye".

(Senator Martin entered the meeting room.)

The Chairman. Senator Martin, the committee has just voted to cite for contempt the four persons mentioned in the four reports before us.

Senator Martin. I will vote "aye" for that.

The Chairman. The record will show that all members of the committee with the exception of one have voted "aye" for the motion. An opportunity will be afforded for the recording of the remaining vote at any time during the day.

If there is nothing further, gentlemen, thank you and the meeting is adjourned.

(Whereupon, the meeting adjourned at 10:30 a.m.)

GOVERNMENT'S EXHIBIT NO. 3

This is to certify that the following are true and accurate excerpts from the official minutes of the meeting of January 14, 1957, of the Committee on Government Operations of the United States Senate:

"MINUTES OF MEETING OF COMMITTEE ON GOVERNMENT OPERATIONS HELD MONDAY, JANUARY 14, 1957

"The Committee on Government Operations met, pursuant to notice, on Monday, January 14, 1957, at 10:00 a. m. in Room 357, Senate Office Building. Chairman McClellan presided. Also present were the following Senators:

"Senator Jackson
Ervin
Thurmond
McCarthy
Mrs. Smith of Maine
Martin of Iowa
Curtis

"The following matters on the attached agenda were discussed, and action taken as indicated:

"Appointment of subcommittees

Chairman McClellan announced the appointment of the following subcommittees, stating that the minority members had been appointed in each instance after consultation with the ranking minority member, Senator McCarthy:

"Senate Permanent Subcommittee on Investigations

"Senator McClellan, Chairman	McCarthy
Jackson	Mundt
Symington	Revercomb
Ervin:	

* * * *

"On motion of Senator Thurmond, seconded by Senator McCarthy, organization of these subcommittees was approved and the membership confirmed."

* * * *

"Budget for Senate Permanent Subcommittee on Investigations

On motion of Senator McCarthy, seconded by Senator Thurmond, the proposed budget for the subcommittee for the period February 1, 1957 to January 31, 1958, in the amount of $225,000, was unanimously approved. Chairman McClellan was authorized to introduce an original resolution requesting funds in that amount, for reference to the Committee on Rules and Administration.

"Labor Racketeering Investigation

Senator McClellan informed the committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week, on the question of labor racketeering, and that a question of committee jurisdiction had arisen between this committee and the Committee on Labor and Public Welfare. He also stated that, in the event that the Subcommittee on Investigations was to undertake the investigation, it would be necessary to have additional funds."

* * * * *

"Rules of Procedure for the Senate Permanent Subcommittee on Investigations.

Senator McCarthy moved the adoption of the previous rules of the Subcommittee on Investigations, with a modification to Rule No. 7 suggested by Chairman McClellan. Senator Thurmond seconded the motion, and the previous rules of the Permanent Subcommittee on Investigations adopted during the 84th Congress, were unanimously adopted, with the inclusion of the amended language to Rule 7, as suggested by Chairman McClellan."

* * * * *

"It was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigation as its parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946."

* * * * *

"The meeting adjourned at 10:30 a.m."

114-m

June 10, 1957

/s/ Walter L. Reynolds
Walter L. Reynolds
Chief Clerk

This is to certify that Walter L. Reynolds is Chief Clerk of the Committee on Government Operations of the United States Senate and is the custodian of the official records of that Committee.

/s/ Felton M. Johnston
Secretary of the Senate

(SEAL)

EXCERPTS OF TRANSCRIPT

* * * * * *

Washington, D. C.

Tuesday, July 23, 1957.

The above-entitled case came on for trial in the United States District Court for the District of Columbia at 10:15 o'clock in the forenoon on Tuesday, July 23, 1957,

BEFORE:

HONORABLE HENRY A. SCHWEINHAUT, Judge of the United States District Court for the District of Columbia, there being the following

APPEARANCES:

WILLIAM HITZ, ESQUIRE, Assistant United States Attorney, on behalf of the United States;

NUGENT La POMA, the defendant in person, and by

JOHN K. PICKENS, ESQUIRE, JERRY N. GRIFFIN, ESQUIRE, and ROBERT E. WATKINS, ESQUIRE, his attorneys.

The following proceedings and transactions were then had and evidence was adduced:

PROCEEDINGS, TRANSACTIONS AND EVIDENCE

THE DEPUTY CLERK: The case of Nugent La Poma. Mr. Hitz; Mr. Pickens.

MR. HITZ: The Government is ready.

MR. PICKENS: The defendant is ready, your Honor.

THE COURT: Now, gentlemen, will this case be without a jury, or with a jury?

MR. PICKENS: The defendant wishes to waive a jury, your Honor.

THE COURT: Has he signed a waiver?

MR. PICKENS: Not yet.

THE COURT: Do you consent to that, Mr. Hitz?

MR. HITZ: I do consent and I will sign it.

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OPENING STATEMENT ON BEHALF OF THE UNITED STATES

By: William Hitz, Esquire

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Now, in 1955 the subcommittee that had been set up to conduct the investigations for this Government Operations Committee--known then as the Permanent Subcommittee on Investigations; I believe that is what they called themselves, Permanent Subcommittee on Investigations--commenced to look into the procurement of textiles in military uniforms. And in the course of doing so, as indicated by the Chairman's opening statement at the commencement of these hearings, they pretty soon ran into some union activities in the eastern area of the country which made less efficient and more expensive the procurement of Government military uniforms. And in the course of doing that they ran into certain misuse of union funds and racketeering in the field of labor particularly in New York, New Jersey, and Pennsylvania.

And further in the course of those investigations it was determined by the Committee, upon information it had received, that there was extensive misuse of union funds, and the Committee was at that time aware of certain legislation that had been passed and some other that was being considered having to do with the protection of interstate commerce and having to do with the granting of rights and of privileges and of duties to both employers and unions and union members.

* * * * * *

Now, on the first page of the Labor-Management Relations Act, which I have handed to the Court, which is Public Law 101 of the 80th Congress, the purpose of this Taft-Hartley Act is noted, and your Honor will notice that in the second paragraph of Part B of Section 1 it states that it is the purpose and policy of this Act, in order to promote the full flow of commerce, to prescribe the legitimate rights of both employees and employers in the relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the legitimate rights of the other, to protect the rights of individual employees in their relations

with labor organizations whose activity affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare and to protect the rights of the public in connection with labor disputes affecting commerce.

Now, in order to carry out the provisions of this Act certain requirements were placed upon labor organizations. And I may say there is some question in the minds of the National Labor Relations Board, which is the enforcing agency, and the Labor Department with respect to whether the top hierarchy of labor unions--that is the international union level or even in this case the western conference union level, Teamsters, that would be, --is subject to the requirements of this Act.

Since there is that uncertainty by the officials who have to do with this Act it is further indication that it needs legislative clarification. But at the levels where labor unions in order to partake of the benefits of this Act in connection with bargaining with employers, at that level and at those levels it is clearly stated that certain financial reports shall be filed with the Labor Department and then the Labor Department, as I think is clear from the testimony of the Government officials who appeared before this Subcommittee, certifies back to the union with a double-barrelled postal card, one to be kept by the union and one to be sent by the union to the National Labor Relations Board, that there has been compliance by the filing of financial statements.

THE COURT: Now, what is "compliance"?

MR. HITZ: Compliance is if I go--

THE COURT: What does that mean and how is it effected?

MR. HITZ: Well, on Page 11 of the print and in Part 9(f) it states that no investigation shall be made by the Board, which is the Labor Relations Board, unless the labor organization asking for certain relief shall have filed prior to that time, not with them but with the Secretary of Labor, a copy of the constitution, by-laws, and

a report showing--and this is the financial report--the name of the labor organization and the address, the names, titles and compensation and allowances of its three principal officers and of any other officers or agents whose aggregate compensation and allowances exceeded
11 $5,000, the manner in which the officers are elected, initiation fee of new members, the regular dues of old members, detailed statement of certain matters having to do with the levying of assessments, the calling of meetings, the authorization for disbursement of funds and the audit of union financial transactions, expulsion of members and grounds therefor, and then it is further provided in 9(f) on Page 11 that the reports that are to be filed by the union organization--and I say there "union organization" because that is a statutory expression which means not only locals but other union organizations of the hierarchy which seeks these reliefs of the Act--that the information filed with the Labor Department--that is these financial reports--shall be made available to the membership which is considered by the Board to be--by the Labor Department to be an important self-policing element and perhaps one of the most important elements of this Act.

And then, of course, these reports must be kept up to date. They are annual reports.

Now, when the Subcommittee, through its preliminary investigation, found that there were incidents of misuse of funds that had come to their attention they determined that one way of finding out the extent of it, the evil of it, and possibly a way to cure it would be to check the accuracy of these reports that were filed with the Labor
12 Department in order to come in under the National Labor Relations Board.

The Subcommittee determined, upon pursuing that plan, in part to determine the existence of the evil, the extent of the evil and corrective measures, some time in the summer of 1956. And ultimately, as your Honor is aware from having looked at the transcript of the hearings here in January of 1957, that was culminated by

obtaining the testimony of the Secretary of Labor and the head of the National Labor Relations Board and their testimony became part of the record in these hearings of this Subcommittee.

An effort was made by the Subcommittee to find out the extent of these evils and problems in the Western Conference of Teamsters out on the West Coast, embracing eleven states, I think, and the Joint Council No. 28, which is a group of locals, and also in certain locals in that area, particularly Local No. 174, because the Subcommittee had received information that Local 174, one of the principal local unions in the Teamsters in the Western Conference area, was a conduit formerly to Dave Beck who was then head of the Local 174, a conduit to him and to other local and Joint Council and Western Conference officials for the misappropriation of the funds of the union.

At the time that certain members of the staff of this Subcommittee went out to the West Coast, in November, 1956, and I think
13 at the present time, too, the defendant LaPoma was the head of Local 174, and the Subcommittee sought by investigations on the scene in Seattle and in that area to find out and to verify what they could concerning the alleged misuse of union funds particularly through Local 174 and also to obtain an opportunity to look at the records of Local 174, which had been kept under the jurisdiction of LaPoma here.

They made that effort by going to LaPoma and his attorney, Mr. Sam Bassett, and permission was refused to examine the books of the local out there on the scene.

THE COURT: And then the Committee subpoenaed them?

MR. HITZ: And then the Committee subpoenaed all of the financial records which would have included the office copies of the forms filed with the Labor Department.

THE COURT: I am familiar with that.

MR. HITZ: Yes, sir.

THE COURT: And Mr. LaPoma appeared, refused to produce,

and refused to testify.

MR. HITZ: And even refused to identify his signature on the papers under the theory that this Subcommittee and the parent Committee lacked jurisdiction.

THE COURT: Now, as precise as you can be about it, what is your theory of pertinence of the records and of his testimony concerning them had he given it?

14 MR. HITZ: Well, the field of commerce is, of course, open for Congress to legislate in as has been done over a period of many years. The labor-management field and the relationship between the two and to the public is extremely important in the field of commerce. Congress has entered that field.

It has made certain provisions for policing and self-policing the unions and the relationship they have with employees.

THE COURT: Tied into what Government operation? The operation of the Taft-Hartley Act?

MR. HITZ: Into the operation of the Taft-Hartley Act.

THE COURT: And the operation of the National Labor Relations Board.

MR. HITZ: Administered through the Labor Relations Board.

THE COURT: And the operation of the Department of Labor--

MR. HITZ: And partly by the Department of Labor.

THE COURT: --in a sense.

MR. HITZ: That is it.

THE COURT: Now, I got the impression, and tell me if I am right about this, that somewhere, possibly in the motion or in my reading, such as I have done, of the exhibits which are already in the

15 file, and probably you might as well both clear me up on this point now rather than later because I have the impression that it is in this case and it may or may not be of importance--I don't know--but it is my impression that a labor official, an official of a labor union or of a local of a labor union, has to file an affidavit, and, frankly, I don't know what he has to assert in the affidavit, but I have the

impression that you have to take his word, as of now, on the state of the law as of now, for whatever he says in that.

Now, am I off the reservation there or not?

MR. HITZ: No, there is evidence to that effect in this case. Whether that is a true and accurate interpretation of the situation by the officials who expressed it is another matter. But there is definitely that feeling by--

THE COURT: Well, do you place any reliance on the proposition, assuming it is the fact, that that may be a basis for potential legislation?

MR. HITZ: Oh, yes, definitely.

THE COURT: Is that part of your case?

MR. HITZ: Oh, definitely, it is, as well as to determine, largely looking to the present and the future, whether the existing legislation and rules made under the legislation are--

16 THE COURT: Adequate.

MR. HITZ: --effective and are adequate and are economic in the purposes for which they were promulgated, but then looking to the future to see whether they need to be corrected.

THE COURT: All right.

MR. PICKENS: All I would add, your Honor, is that, of course, that labor official or any labor official that files one of these affidavits is still subject to Title 18, Section 1001, the filing of false information with the Government.

THE COURT: Yes.

MR. HITZ: Well, there might be considerable question as to that for the reason--

THE COURT: How could there be?

MR. HITZ: --that it is held at least in this jurisdiction--

THE COURT: If it is material.

MR. HITZ: --and in increasingly a number of jurisdictions you have got to prove materiality.

THE COURT: Well, I say, if it is material.

MR. HITZ: Now, if you have the Secretary of Labor coming in and stating under oath that he doesn't think that he has any concern or any authority over the accuracy of the statements and the truthfulness of them--

17 THE COURT: Then, perhaps, it wouldn't be material.

MR. HITZ: That is right. There is the problem. And you have the administrator or one of the administrators of this filing function stating so and the other one, Mr. Leedom of the Labor Relations Board, says he is in agreement with that, too.

And furthermore, --

THE COURT: I suppose insofar as that phase of the matter is concerned, the Government officials principally concerned don't know where they are at.

MR. HITZ: That is putting it very concisely, more so than I would have done, but I was thinking along that same line particularly since their view on the matter stems from a Supreme Court case which I doubt very much goes as far as they are indicating.

THE COURT: What case?

MR. HITZ: It is Leedom vs. The Minnesota Mill and Smelters Union decided about in March of this year in which there was a finding, as I recall it, of a false affidavit by way of a conviction against--well, anyway, a finding of some sort of false affidavit, financial affidavit, and as a result of that the entire union, I think, was penalized and told that it could not come under the Act.

The false affidavit was one of non-Communist membership.

18 That is what it was. And it was held in that case that the membership of the union cannot be penalized by being forbidden the rights under the Act merely because at some prior time one of its officials had falsified a non-Communist affidavit.

Now, the Labor Department and the National Labor Relations Board say that that means that the truth and accuracy of the financial reports are not available to them for consideration, which is a very doubtful position to take. In any event, looking to the future, to plug

the loophole, if it is one, it is part of the legislative purpose and function and need as expressed in the Watkins case of this inquiry.

* * * * * *

20 MR. HITZ: And so much for the Government activity which is the assertion of rights, obtaining of rights and privileges under the Labor Relations Board.

There was another Government activity that was of interest to the Committee which concerned labor unions and these particular labor unions and this particular local, and that was that under Section 501(c)(5) of the Internal Revenue Code the Treasury Department grants tax exemption to labor union organizations.

And certain information returns are required in order to acquaint the Treasury Department and--

THE COURT: Well, now, that I missed. That is something new to me. Tax exemptions to what extent, shall we say, and why?

MR. HITZ: Income tax exemption of the legal entity of the
21 union, whatever it might be. It is an unincorporated association and in this particular instance--

THE COURT: And based upon an income tax return filed by the labor union as such rather than the individual?

MR. HITZ: By the labor union as such, by its officers on behalf of the union, filed with the Internal Revenue. It is an information return. It is not subject to a levy on it of an income tax because it is an information return and having filed the information return, tax exemption is automatically granted to that union entity.

THE COURT: To what extent? You mean wholly?

MR. HITZ: They don't pay any income tax.

THE COURT: They don't pay any income tax?

MR. HITZ: No, not like you and I and Mr. Pickens here. It is a bonus given to labor unions.

THE COURT: And so what does that have to do with this case?

MR. HITZ: It was learned by the Committee that there was misuse of the funds. It was desired to determine whether or not the

misuse of funds, misappropriation of those funds, was reflected in those information returns just as they had sought to see if they were reflected in the Labor Department.

THE COURT: And thus possibly remove the exemption?

MR. HITZ: Possibly to remove the exemption; to find out whether
22 or not the individual members of the unions--which was one of the objects, if your Honor will recall, to protect the members of the unions from the miss or malfunctioning of its officers, that purpose of this Act--now back to the Labor Act--was being carried out. Now, if there was a misappropriation of funds and it was not reflected--that is, suppose a union officer who was scheduled to get on the surface, and legally and by permission of the membership, $5,000 a year, was getting $5,000 a year but many allowances and bonuses and was stealing a little bit on the side, it would indicate then that the membership was not being protected from its officers and it would mean, too, that the general public which would probably put up with the granting of a tax exemption for a properly run union by proper and honest union officials would not be granted that privilege of tax exemption.

Now, in Section 1(b) of the Labor-Management Act, your Honor will recall that one of the purposes was "to protect the rights of individual employees in their relations with labor organizations". The public, too, is one of the objects of the protection that is afforded by this Act and the public would not be protected tax-wise or any other way if tax exemption by way of failure to pay--forgiveness of the obligation to pay income taxes was afforded to unions that were being operated by racketeering officials.

23 So that we have two Government activities, the activity of collecting the revenue and the activity of protecting the interstate commerce, that was before the Subcommittee and under study by reason of the relationship of these unions that were supposed to have been conducted improperly by some of their officials.

I may say that one of the details of misuse of funds which came to the attention of the Committee, the Subcommittee here, before the

testimony of this witness was the activity of one Shefferman who was supposed to be a public relations man largely and ostensibly on the side of management in the midwest, around Chicago; that, however, he played a dual role; that frequently he came in between labor and management and broke strikes and that he did tremendous favors for members of labor unions particularly Dave Beck and some of the officers of the Teamsters Union.

In fact, Beck and some of his associate officers had a running charge account with some of the firms for whom Mr. Shefferman was public relations man, some big manufacturing concerns, and they would buy at discount all sorts of things from stoves to lawnmowers, and then ultimately, every once in a while or every few months Mr. Shefferman would be recompensed for these purposes.

THE COURT: Now, what has that got to do with LaPorta or this case?

24 MR. HITZ: I am just getting to it. And Mr. Shefferman would be recompensed for all of these things that he supplied at wholesale prices to these individuals by union funds and that one of the conduits for the union funds to arrive at Shefferman, the Committee was informed, was Local No. 174 in Seattle.

And, of course, that was an allowance. It might even have been a theft, but it was at least an allowance that would have to be reported both to the Labor Department and to the Internal Revenue officials if there was a truthful--

THE COURT: If what?

MR. HITZ: If there was a truthful and accurate accounting of the finances of the labor union.

So that is the Governmental activity. Those are the Governmental activities. They have to do with the present economy and efficiency of those Governmental operations as well as the need for legislation which was screamingly evident after the officials had testified at the beginning of these hearings from the Labor Department, Labor Relations Board and Internal Revenue Bureau.

Now, of course, it is obvious with that background that any witness in the position that Mr. LaPoma was in would readily recognize, and in the language of the Watkins case it would be undisputedly clear to him, that there was a very close and direct connection between
25 the financial records of the union that he was asked to produce and didn't, between the mechanics of identifying certain documents that had come to the Committee having been filed and bearing the signature of La Poma.

The identification of those documents would have been important and necessary for the conduct of the investigation as well as the questions relating thereto which were asked of him and which he refused.

So we say that we will establish in that way the pertinency of the questions to a proper legislative activity which had been delegated to this particular Committee and which the Committee had delegated to this Subcommittee, and that there was, in addition to that, procedural compliance with the later decision in the Watkins case in the details that I have indicated.

* * * * * *

55 MR. HITZ: Government No. 1.

THE CLERK: Government's Exhibit 1, for identification.

THE COURT: It is being offered in evidence, isn't it?

MR. HITZ: I am marking it now; then I am going to offer it right away.

THE COURT: Let's have it in evidence.

Do you have any objection? I don't know what this is.

MR. HITZ: It is "A Compilation of The Legislative Reorganization Act of 1946," a Government print.

MR. PICKENS: No objection.

THE COURT: Let it be in evidence.

56 THE CLERK: Government's Exhibit 1.

(Whereupon "A Compilation of The Reorganization Act of 1946" was marked Government's Exhibit No. 1 and received in evidence.)

MR. HITZ: In that exhibit, Your Honor, I would like to invite Your Honor's attention to the statement of the jurisdiction of the Committee on Government Operations on Page 6 thereof, and point out that we make particular reliance upon the parts (g) (2) (b) and (c).

Your Honor will note that the Committee is entitled "Committee on Government Operations."

If Your Honor will turn to Page 50--

THE COURT: Wait a minute. On Page 6, (g) (2)--

MR. HITZ: --(g)(2).

THE COURT: I have it.

MR. HITZ: Yes, sir, (b) and (c). We particularly invite Your Honor's attention to those parts of the authority.

THE COURT: Yes.

MR. HITZ: Next, if Your Honor would turn to Page 50, Your Honor will note in the fifth line from the top that this Committee was formerly known as the Committee on Expenditures in the Executive Departments, the change having been made as is indicated in Footnote 10, by S. Res. 280 of the 82nd Congress, which was passed in January '52.

THE COURT: Wait a minute. I don't find Footnote 10.

57 Yes, I have it.

MR. HITZ: Mark that Government No. 2.

THE CLERK: Government's Exhibit 2.

MR. HITZ: Mr. Clerk, I will make a short description of this, if you want to note it down on your sheet.

THE COURT: Have you got a description of this No. 1? "A Compilation of The Legislative Reorganization Act." That is enough for your purposes.

THE CLERK: Yes, sir.

MR. HITZ: Government No. 2, Your Honor, is Excerpts of the Committee on Expenditures Minutes of a Meeting of January 15, 1948.

I offer that in evidence.

MR. PICKENS: I have no objection, Your Honor, with the

understanding--I have copies of that--I may offer anything in addition to that excerpt from those minutes.

THE COURT: Yes.

(Whereupon the said document, Excerpts from Minutes of Meeting of Committee on Expenditures on January 15, 1948, was marked Government's Exhibit No. 2 and received in evidence.)

MR. HITZ: Your Honor will note there that there was under discussion S. Res. 189. I can say to Your Honor that that was an appropriation measure.

THE COURT: Tell me this: Why am I concerned with it, with
58 the Senate Resolution which is referred to here?

MR. HITZ: Well, the Chairman spoke, according to these excerpts, in explanation of the scope of the authority which he considered that the Committee had. It is part of the legislative history.

THE COURT: All right.

MR. HITZ: And Your Honor will note that Chairman Aiken explained that this Resolution would consolidate in one subcommittee the work of the present Special Committee to investigate the National Defense Program--

THE COURT: And so on. I saw that.

MR. HITZ: And so forth. That is the so-called Truman Committee.

THE COURT: Yes.

MR. HITZ: Will you mark Government's No. 3.

THE CLERK: Government's Exhibit 3.

MR. PICKENS: I have no objection, with the same understanding, that I may introduce the things that have been excerpted.

MR. HITZ: "Excerpts of the Minutes of Meeting of the Committee on Expenditures on February 26, 1948."

(Whereupon the said document, "Excerpts of the Minutes of Meeting of the Committee on Expenditures on February 26, 1948," was marked Government's Exhibit No. 3, and received in evidence.)

59 MR. HITZ: I would like to read to Your Honor parts of that, if you would permit me.

"Chairman Aiken stated that the meeting was called to consider the appointment of a subcommittee to carry out the provisions of S. Res. 189, 80th Congress."

And skipping some:

"It was further unanimously agreed that the subcommittee be authorized to proceed with any investigation within the jurisdiction of the full committee.

"However, without limiting the authority thus granted to the subcommittee, an understanding was reached that the subcommittee would in general observe the following restrictions upon its activities.

"1. If the members of the subcommittee fail to reach unanimous agreement with respect to any major investigation or field of investigation, the matter shall be submitted to the full committee for decision.

"2. The principal function of the subcommittee shall be to investigate complaints and information coming to its attention involving the possible existence of fraud, malfeasance,
60 collusion, corrupt or unethical practices and waste and extravagance in transactions, contracts and activities of the Government or of governmental officials or employees.

"3. Studies of routine problems of management or administrative economy or efficiency such as are made from time to time by the staff of the Committee on Expenditures and which do not require extensive work of an investigative character shall not ordinarily be included in the duties of the subcommittee."

Skipping "4" the excerpts continue:

"A name for the subcommittee was discussed. The proposal was made that it be called the Subcommittee on Senate Investigations. It was suggested that it would probably come to

be known as the Senate Investigating Committee."

And I am skipping the remaining two paragraphs at this time.

Would you mark this Government 4, please.

THE CLERK: Government's Exhibit 4.

MR. HITZ: Government 4, for identification, is Excerpts from the Minutes of Meeting of the Committee on Expenditures for January 16, '52. We offer it in evidence.

61

MR. PICKENS: I have no objection.

(Whereupon the said document, "Excerpts from the Minutes of Meeting of the Committee on Expenditures for January 16, 1952," was marked Government's Exhibit No. 4, and received in evidence.)

MR. HITZ: Your Honor, this is simply to record for this record the change in the name of the subcommittee to the one that is contained in our indictment, and by which this Committee is now known, this Subcommittee, which is, Senate Permanent Subcommittee on Investigations.

Next is Government 5, for identification, being Excerpts from the Minutes of the Meeting of the Committee on Government Operations of January 14, 1957, which appoints for the Session beginning in 1947 the members to comprise the Subcommittee.

Your Honor will note that the name of the full Committee has now been changed and we have indicated how that was done in Exhibit No. 1.

MR. PICKENS:: I have no objection.

THE CLERK: Government's Exhibit 5.

(Whereupon the said document, "Excerpts from the Minutes of Meeting of Committee on Government Operations of January 14, 1957" was marked Government's Exhibit No. 5, and received in evidence.)

MR. HITZ: Next is Government's 6, Your Honor, which is

62

Senate Resolution, S. Res. 188 (84th), which is the appropriations resolution for the operation of the Government Operations

16 Committee and its subcommittees for the 84th Congress.

MR. PICKENS: I have no objection.

THE CLERK: Government's Exhibit 6.

(Whereupon the said document, "S. Res. 188" of the 84th Congress, was marked Government's Exhibit No. 6, and received in evidence.)

MR. HITZ: Next is Government's 7, for identification, which is a copy of the print of the Government Printing Office of Public Law 101, which is the Labor-Management Relations Act of 1947, otherwise known as the Taft-Hartley Act.

We offer that.

THE COURT: You have inserted a slip copy of Public Law 189.

MR. HITZ: Those are amendments.

THE COURT: Is that referred to in Government No. 7?

MR. HITZ: No. It is amendatory to Government 7, which is Public Law 101.

THE COURT: Mark this 7-A.

THE CLERK: Yes, Your Honor.

Government's Exhibits 7 and 7-A.

THE COURT: You had better make a note of that too, Mr. Hitz.

MR. HITZ: Yes, Your Honor.

63 THE COURT: Now, what is the purpose of this offer of 7 and 7-A?

MR. HITZ: It is a statutory enactment that was within the knowledge and attention of the Committee at the time that it conducted this investigation. That Act states the requirements for the financial reports, having to do with the Labor Department, and more precisely, the National Labor Relations Board.

MR. PICKENS: No objection.

(Whereupon the said documents, "Public Law 101," and "Public Law 189," were marked Government's Exhibits 7 and 7-A, respectively, and received in evidence.)

MR. HITZ: Next is Government 8, for identification.

THE COURT: And what is that?

MR. HITZ: A copy of the hearings of this Subcommittee.

THE COURT: I already have that.

MR. HITZ: I supplied you with a copy several days ago, a working copy.

THE COURT: Exactly the same.

MR. HITZ: Yes, it is, Your Honor.

This is Hearings of Subcommittee, January 16-19, 1957.

MR. PICKENS: I have no objection, Your Honor, except that testimony or questions were asked of some seven witnesses.

THE COURT: Yes, only that part of this Government 8 which would refer to this case.

64 MR. PICKENS: It is the same series of hearings, those three, four days.

THE COURT: Yes; but there are a number of witnesses here, most of whom, maybe all of whom, I suppose, wouldn't have anything to do with this case.

MR. PICKENS: Their testimony as to what the question under inquiry was.

THE COURT: Do we agree that the whole of these hearings are in evidence?

MR. PICKENS: As far as I am concerned.

MR. HITZ: That is my offer.

THE COURT: O.K., if that is so.

MR. PICKENS: Except it is not complete. This transcript is not complete.

THE CLERK: Government's Exhibit 8.

(Whereupon the said document, "Hearings Before The Permanent Subcommittee on Investigation," January 16-19, 1957, was marked Government's Exhibit No. 8, and received in evidence.)

THE COURT: And except also I doubt very much if I am going

to read all of that.

MR. HITZ: I have provided Your Honor with the copy of the Citation of LaPoma to the United States Attorney. I would like to have that marked for identification.

THE COURT: That is in the file.

65 MR. HITZ: It is in the file?

THE COURT: Yes.

MR. HITZ: Could we have it among our exhibits, Your Honor?

MR. PICKENS: That was one of Defendant's exhibits on the Motion to Dismiss.

THE COURT: I think it was, yes.

MR. PICKENS: That is correct.

THE COURT: Attached to your motion.

MR. PICKENS: The first motion, I believe, Your Honor.

MR. HITZ: Well, the copy that I am speaking of is one that I provided Your Honor several days ago, last Friday, I think it was, for your information.

THE COURT: I have filed on April 22, 1957, certified copy by the Chief Clerk of the Senate, an engrossed copy of Senate Resolution 89, citing Nugent LaPoma for contempt of the Senate.

That is what you are talking about?

MR. HITZ: That is the document. I would like to offer my own copy of it, which I have furnished Your Honor last Thursday or Friday.

MR. PICKENS: I have no objection.

THE COURT: I have that, too.

MR. HITZ: I think that is a blue-bound--

THE COURT: Here it is.

66 MR. HITZ: Could we mark that 9, Your Honor.

THE CLERK: Government's Exhibit 9.

MR. HITZ: We offer 9.

MR. PICKENS: No objection.

MR. HITZ: Mr. Clerk, you can call 9, Citation to U. S. Attorney.

(Whereupon the said document, Certified Copy of Citation of LaPoma to U.S. Attorney, was marked Government's Exhibit No. 9, and received in evidence.)

MR. HITZ: Next is Government 10, for identification, which is a copy of Senate Joint Resolution 94.

MR. PICKENS: No objection.

THE COURT: Just a moment.

MR. HITZ: May I describe it for the record, Your Honor?

THE COURT: Yes.

MR. HITZ: That is a copy of a resolution submitted jointly by members of the--

THE COURT: Senate and House.

MR. HITZ: No, Your Honor, of the Committee on Labor and Public Welfare and the Government Operations Committee to accomplish the making public of the financial statements required by the Taft-Hartley Act.

THE COURT: All right.

THE CLERK: Government's Exhibit 10.

67 (Whereupon the said document, Senate Joint Resolution 94, was marked Government's Exhibit No. 10, and received in evidence.)

* * * * * *

68 THE COURT: What you are about to read now should in normal course follow Mr. Kennedy; is that right?

MR. HITZ: That is right, sir.

THE COURT: I understand that.

MR. HITZ: Thank you.

I am reading now from Government 8, the hearings entitled, "Violation or Nonenforcement of Government Laws and Regulations in the Labor Union Field," and Page 1, of "Wednesday, January 16, 1957.

* * * * * *

20 70 MR. HITZ: "Present: Senator John L. McClellan, Democrat, Arkansas; Senator Henry M. Jackson, Democrat, Washington; Senator Stuart Symington, Democrat, Missouri; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Joseph R. McCarthy, Republican, Wisconsin; Senator Earl E. Mundt, Republican, South Dakota; Senator Chapman Revercomb, Republican, West Virginia."

I would like to interrupt the reading to point out to Your Honor that that adds up to seven Senators of the Subcommittee; and I would like to invite Your Honor's attention to the inside front cover of this Exhibit No. 8, which indicates that there are seven members of the Subcommittee; so they were all present.

That does not relate to the quorum matter, but it indicates approval of the statement of the purposes of this particular investigation by the entire number of persons present, the full Subcommittee authorizing it by way of acquiescence

I continue to read without omission:

"Also present: Robert F. Kennedy, chief counsel to the subcommittee; James N. Juliana, chief counsel to the minority; Jerome S. Alderman, assistant counsel; Ruth Y. Watt, chief clerk.

"The Chairman: The subcommittee will be in order.

71 "(Present at the convening of the executive session were Senators McClellan, Jackson, McCarthy, and Mundt.)

"The Chairman. The Chair will make this preliminary statement for the record.

"As members of the subcommittee know, and as is public knowledge, during the past 2 years, the Senate Permanent Subcommittee on Investigations has been studying and inquiring into the procedures and practices in the procurement of textiles and uniforms by the military services. In the course of its investigation, facts were developed showing collusion between certain dishonest management and union officials that had the effect of increasing the cost to the Government of goods and commodities

it purchased and the supplying of inferior quality.

"In the passage of the Taft-Hartley law in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types of racketeering, including the misuse or misappropriation of union funds by dishonest union officials. The law provides that there shall be a registration of
72 labor organizations and a full and accurate report by such organizations of their revenus and expenditures and of all compensation and allowances over and above $5,000 paid to and received by labor union officials and union employees from dues collected from members or from other union funds.

"Today, the subcommittee will hear officials from the Department of Labor, the National Labor Relations Board, and the Treasury Department. We shall make inquiry of them as to the adequacy of existing statutes and their present rules and regulations to enable them to administer the law efficiently. Also, we shall inquire whether there should be any modifications or changes in existing law to assist them in determining the adequacy, accuracy, and truthfulness of financial reports and other information required to be supplied by labor unions and labor union officials.

"We want to determine whether agencies of Government
73 are able to and have the authority to ascertain whether such information contained in such labor union registrations, financial reports, and the reports of the labor union officials are accurate, true or false.

"The subcommittee is aware of recent court decisions which may sharply limit and restrict the right of Government agencies such as the Treasury Department, the Bureau of Internal Revenue, the Department of Labor, and the National Labor Relations Board to investigate and determine the accuracy, truthfulness or falseness of various reports the unions and their officials are obligated to file. We intend to ascertain whether, in view of these

court decisions, the responsibilities of the Government in this area under existing law are being administered efficiently and economically. We also want to know whether legislation in this area is necessary to improve the efficient and economic administration of existing law or if modification or change is required to promote greater efficiency and economy.

"Conferences with representatives of the Bureau of Internal Revenue indicate the need for strengthening legislation to enable
74 the Bureau to investigate labor organizations which, under the law, are tax exempt. The Bureau of Internal Revenue should have the authority to determine whether any of the labor unions' funds and particularly dues collected from union members, are used by union officials for personal gain and profit. We also want to know whether and why such tax exempt labor union organizations can refuse to allow either the legislative or the executive branch of the Government to examine their books and records. The Government should be permitted to establish whether such organizations come within the purview of the law granting it a tax exempt status.

"This subcommittee proposes to determine whether, after such refusal, the continuance of a tax exempt status is warranted of if such tax exempt status should be forfeited by such refusal.

"In the course of our previous investigations and this present preliminary inquiry, we have acquired information that clearly indicates that there is labor racketeering in the area of
75 Government procurement resulting in increased cost to the taxpayers for commodities produced; that false reports have been filed by certain labor organizations with respect to their expenditures; that compensation and allowances paid by certain unions to their officials have not been accurately and truthfully reported; that there has been manipulation of accounts involving dues collected from their members, as well as welfare funds; also other irregularities and improprieties have come to the attention of the subcommittee.

"It is, therefore, our purpose to develop facts and information that will enable the Federal Government to improve its efficiency and strengthen its economy. In this effort we have every reason to expect the wholehearted cooperation and support of the leaders and members of labor organizations whose actions and practices conform to the law, who observe the proprieties of proper labor-management relations, and who are interested and desire to cooperate in improving the efficiency and economy of Government operations.

"I may further state for the record, that since it became
76 known and publicized that this committee was making a preliminary investigation into this area of Government operations, the public has indicated a very keen interest in such an inquiry, as evidenced by letters that the committee is receiving from union members and members of labor organizations who are reporting about conditions that prevail and urging that attention be given to it.

"Also, I think, it is fair to say that a good many Members of Congress have expressed their views that there is a job here that should be done by the legislative branch of the Government in furthering an investigation or pursuing an investigation to develop the facts, so that Congress may take a look at it with a view to any legislation or any change in administrative procedures that might enhance Government efficiency and economy.

"I believe that is all the Chair wishes to state at this time. Does any member of the committee wish to comment?

"(Senator Ervin entered the room.)"

Senator Mundt states:

77 "It is a good statement, and I associate myself with it.

"The Chairman. Will you be sworn?"

And then was Sworn Boyd Leedom, Chairman of the National Labor Relations Board.

MR. PICKENS: Your Honor, this statement, I believe, was

read at the opening of a closed or Executive Session, and the indictment of LaPoma was for refusal to answer questions some three days later in an open session.

THE COURT: Yes. Well, now, I take it --

MR. HITZ: That is correct.

THE COURT: Yes; I understood that, too; but I take it that what you just read to me is the statement, a mimeographed copy of which was later given to Mr. LaPoma; is that right?

MR. HITZ: That is right.

MR. PICKENS: Well, I think the record shows that Mr. LaPoma saw a copy of the statement that Mr. Bassett had, but, of course, we have no way of knowing whether the mimeographed copy he saw was the same as the statement printed here.

THE COURT: Have you any way of showing that it was?

MR. HITZ: Yes. We can show that. There was only one --

THE COURT: You will have to, because otherwise, it would not be admissible.

78 MR. HITZ: That is right; but I can't show it all at once, Your Honor.

TH COURT: I know you can't, but the point has been raised, and that is why I asked you if you can show it.

MR. HITZ: I am going to prove that. I am going to prove that only one run was made of the statement, and a copy was given either to Mr. LaPoma or the attorney.

THE COURT: And Mr. LaPoma was asked about whether he had seen it.

MR. HITZ: Mr. LaPoma was asked about whatever copy he saw, whether he had read it.

THE COURT: And he said he did.

MR. HITZ: He said he did.

THE COURT: That is enough to admit it.

MR. HITZ: It is, Your Honor.

Continuing to read, without omission:

"The Chairman. Will you be sworn? Do you and each of you solemnly swear that the evidence you shall give before this Senate investigating subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

"Mr. Leedom. I do.

"Mr. McGuiness. I do.

"Mr. Kuskin. I do.

79 "Mr. Kleeb. I do.

"Senator Ervin. I regret that I have to leave on account of an appointment over at the Pentagon, and I would like to leave my proxy with the chairman to vote at his discretion."

* * * * * * *

80 MR. HITZ: For the benefit of the record and Mr. Pickens, I am now skipping about a half page, and picking up a third of the way from the bottom of Page 4.

Mr. Leedom testifying.

"I have been a member of the National Labor Relations Board since April 1955 and I have been Chairman since November of 1955. The function of the Labor Board is to administer the Labor-Management Relations Act, and that consists primarily of two chief functions: That is, the supervision of representation or union elections in the plants of the country, and the second function has to do with adjudicating charges of unfair labor practices under the act.

"To relate the answer to the subject of this inquiry, as I understand it from your opening statement, the National Labor-
81 Management Relations Act denies the use of the Labor Board to all unions that fail to meet certain requirements, and the ones that I think are particularly pertinent here are those in sections 9 (f), (g), and possibly (h) of the act.

"Those requirements are, generally speaking, that labor unions shall file statements of their financial activities and operations with the Secretary of Labor, and that they shall file statements concerning their officers and compensation and dues collecting, and that they shall circulate or distribute this information

to the rank and file members.

"Section 9 (h) requires that every officer file an affidavit that he is not a member of the Communist Party. The statute further provides that any union that fails to meet these requirements that I have enumerated cannot file a charge that will be prosecuted by the Board, and cannot seek the services of the Board in the supervision of an election for them in the plant.

"The Chairman. Before there can be an election by a
82 union, or a local of a union, must that union have complied with the law with respect to registration and meet the other requirements of the statute, and have a certificate from the National Labor Relations Board so certifying, before it can proceed to have a legal election?

"I used the term 'certificate,' and there may be some other name for it, but it is equivalent to a letter stating to the Board in some form that, that union has complied with the Taft-Hartley law or the National Labor Relations Act and, therefore, it is entitled to recognition by the Board.

"Mr. Leedom. That is right, sir.

"The Chairman. Now, when this registration is done, what is required in the registration? What information does the Board receive upon which it acts to determine such certificate or letter of compliance?

"Mr. Leedom. The reports of the unions covering officers, dues, and the moneys collected, and their other financial data are filed with the Secretary of Labor in the form that he prescribes.
83 "The Chairman. And that registration is not filed with the National Labor Relations Board, but with the Secretary of Labor?

"Mr. Leedom. That is right. When it is actually filed in the form that he requires, he mails to the union that filed it a little statement that looks like a post card that they have met the filing requirements and the union then is required under our rules to mail that to us. So all we get from the unions as to their financial data and the requirements under 9 (f) and (g) are these little

so-called post cards advising from the Secretary through the union to us that they have met the filing requirements.

"The Chairman. In other words, the National Labor Relations . . ."

THE COURT: Let's pause there, if you will, please. Make a note of where you stop.

We will take a luncheon recess now until two o'clock.

(Whereupon at 12:30 p.m., the hearing was recessed, pursuant to reconvening at 2:00 p.m. of the same day.)

84 * * * * * *

MR. HITZ: Your Honor, I wonder if I could interrupt the reading of this testimony of Mr. Leedom and put Mr. Kennedy on the stand and then pick up later where we are?

THE COURT: All right.

MR. HITZ: Mr. Kennedy.

Thereupon

ROBERT F. KENNEDY

was called as a witness by the United States, and being then and there duly sworn by the Deputy Clerk, assumed the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. HITZ:

Q. Give your full name, Mr. Kennedy. A. Robert Francis Kennedy.

Q. And your occupation, sir? A. I am chief counsel for the Senate Select Committee on Improper Activities in Labor - Management Field.

* * * * *

85 * * * * *

Q. Will you tell us in what way the attention and the interest of the Subcommittee came to the Teamsters Union, where it commenced, and how it got there?

MR. PICKENS: Your Honor, I presume this question goes to the

purpose of the question under inquiry I object. I think that the statement of the Chairman, for what it is worth, is competent evidence on that.

I don't think that what Mr. Kennedy's views were or what he learned from investigators or from individual members is competent unless it is some action as a result of the full Committee.

Now, in the Lawson case and in the other Hollywood Ten cases Judge Curran restricted the Government insofar as the evidence concerning the purpose of the investigation or the question under inquiry to the statement of the Chairman.

86 This sort of testimony is what the Supreme Court referred to in the Watkins case as retroactive rationalization. In the Watkins case in the lower court they excluded speeches and statements by members of the Committee, newspaper articles and similar things. This, I don't think, even rises as high as a statement of a member of the Committee or a speech of a member of the Committee This is a speech by its counsel.

I submit that in the Lawson case and the Hollywood Ten, -- as your Honor knows, those cases were exhaustively appealed in our own Court of Appeals and our own Court of Appeals upheld Judge Curran's ruling in that case, and to me the Supreme Court's decision in the Watkins case, in which it says that the court is asked to engage in retroactive rationalization -- it seems to me that any events that occurred prior to January 16th as far as the purpose of the investigation is concerned shouldn't be allowed to be evidence to speculate upon as to what information they had or what they were trying to prove

I think the testimony of the witnesses on the 16th, the 17th, the 18th, and the 19th, the type of questions that they were asked by counsel and the statement of the Chairman of the Committee, is the best evidence and is the only competent evidence of the purpose of the investigation, because here we have no special resolution.

We have only the section or standing Rule 25 of the Senate. What
87 Mr. Kennedy learned in 1956 I don't think is any more valid evidence

than what he learned in '48 or '49 if he were with the Committee then.

So for that reason I object to the question.

MR. HITZ: I think I would like to reframe the question and make it a little bit more specific.

BY MR. HITZ:

Q. Mr. Kennedy, to your knowledge, what information was in the hands of the Committee that caused it to subpoena Mr. LaPoma to appear in January, 1957?

THE COURT: The same objection?

MR. PICKENS: The same objection, Your Honor.

THE COURT: I overrule the objection.

THE WITNESS: Could you repeat the question?

MR. HITZ: Yes.

BY MR. HITZ:

Q. To your knowledge what information was in the hands of the Subcommittee that caused it to subpoena Mr. LaPoma to appear before it in January, 1957? A. Well, we had information at that time that there had been a misuse of union funds from Local 174 which Mr. George Cavano was secretary - treasurer --

THE COURT: His name is the indictment is Nugent LaPoma.

THE WITNESS: Excuse me. Mr. Nugent LaPoma was secretary - 88 treasurer.

BY MR. HITZ:

Q. Let me interrupt and have you go back now.

What information in the hands of the Committee, to your knowledge, led you to the information of misuse of funds?

Let's go back behind that. A. We are conducting an investigation back in 1956 of the Government procurement program. In the course of that investigation we found that some of the shops that were making clothing for the Government, that some of those shops, despite the certification to the Government, were non-union shops;

That some of the people who were contracting with the Government were subcontracting unbeknownst to the Government over into New Jersey

and into Pennsylvania into certain non-union shops and having the clothing for the Government made there.

We found that mixed up in this or involved in this were certain gangsters and racketeers who were giving protection to these non-union shops. We found in the course of this investigation that these goods had to be shipped out of New York City into New Jersey and into Pennsylvania, and that involved in this was the Local 102 of the ILGWU, which is the trucking local of the lady garment workers.

89 And also involved in it was the Teamsters Union which had a close affiliation with Local 102 of the ILGWU; that following our investigations there we came across the names of Johnny Dio and Tommy Dio and several others.

We had them down before the Subcommittee on Investigations in executive session and we found that Johnny Dio at that time -- we learned that he was a close intimate friend of Jimmy Hoffa and from there we got --

* * * * * *

90 A. So we were conducting this investigation into this type of activity in New York City and we had these people that I have mentioned

91 down in executive session. As I said, there was a close relationship because of the trucking that has to be done from New York City out into Pennsylvania and New Jersey, there was a close tie-up with the Teamsters Union, and also because of the close tie-up between certain of these officials and officials of the Teamsters Union.

And the Committee felt that they would be anxious to find out how much these practices spread throughout the whole of the United States. And we did further work in New York and in the surrounding area, and we did some work in other areas of the country.

And it was decided at that time that we should also look into the situation on the West Coast and we were out there for hearings in the early part of November, and in the course of those hearings we made inquiries about the situation on the West Coast as far as the Teamsters were concerned, and as far as other unions - not restricted to the Teamsters, in Los Angeles --

Q. Go ahead and finish that. A. In Los Angeles and we continued that investigation through November and December.

I was giving the history of how it started.

THE COURT: Well, I understand that, but for what purpose did you make this investigation?

THE WITNESS: Well, it originally started -- as I started out to
92 explain, it originally started in our investigation of Government procurement of uniforms. We were -- and have conducted since I became counsel of the Committee in January of 1955 an investigation into the procurement program by the military services, and found in the course of that investigation that there was fraud both at the purchase of uniform level and also in the inspection level;

That during the early part of 1956 we were continuing this investigation and in the course of that investigation we came across these people called the Cravitzes and the Abrams, and they were making their uniforms supposedly up in New York City at regular prices and they had certified this to the Government. In fact, we found on investigation that they were making them across the -- out of the State of New York in non-union shops in Pennsylvania and New Jersey.

And we found that they were paying for these uniforms with a lot of bonds that they had purchased in fictitious names.

So from there, and this is why Dio's name came in, we found that the people who were giving the protection to these non-union shops were the Dio brothers, Johnny and Tommy Dio, and the rest, eight or ten other people. So in the course of that investigation we had these people down.

Now, how we got into the trucking and into the Teamsters was
93 the fact that out of New York City, to get these uniforms over into Pennsylvania and New Jersey and these other places you have to have trucks

Well, these trucks were taking these clothes out of union shops and bringing them to non-union shops. Well, that is not a practice that would ordinarily be followed There would be some objection. So we

wanted to find out how they were able to get these goods taken into non-union shops and we interviewed Mr. Dave Dubinsky, the head of the ILGWU, and inquired into that and we inquired into this Local 102, which was the shipping local of the ILGWU; Mr. Sam Berger, we had him down in executive session.

So we were inquiring into this whole matter of how this type of thing was done on the East Coast.

THE COURT: How did you get to the West Coast?

THE WITNESS: Well, then the tie-up between these various individuals -- they had to have the concurrence of the Teamsters or the shipping, the trucking companies, as I said, the trucking unions, in order that -- which is the Teamsters, of course, in order to get these goods across into New Jersey and Pennsylvania.

And we found this close tie-up between Jimmy Hoffa and Johnny Dio, who was involved in this, and with Sam Berger, who was the head of the trucking -- of Local 102 ILGWU So we branched out from that to find out what the situation was.

94 Then in the course of another investigation that we were conducting on the West Coast, an investigation in a hearing that we conducted in early November --

THE COURT: An entirely different matter?

THE WITNESS: Yes, an entirely different matter

The Chairman of the Committee decided that it would be well to look into what the situation was on the West Coast as far as these kind of practices and any kind of practices similar to that while we were out there That is how we got into this whole investigation insofar as Nugent LaPoma is concerned.

So that history is necessary to understand how we branched out It wasn't just a brand new thing when we decided in November and December of 1956

BY MR. HITZ:

Q Did the Subcommittee take testimony when it was out there conducting this investigation in the fall of '56? A. Yes, and it was as Your Honor pointed out; it was a different --

Q. What month was that? A. That was in November of 1956.

Q. When is the first time that the name of Nugent LaPoma or what is that other name he has? George -- A. George Cavano.

Q. C-a-v-a-n-o? A. (The witness nodded affirmatively.)

95 Q. When is the first time that either one of those two names came to the attention of the Committee to your knowledge? A. Well, I know that we have an investigator on the staff who was familiar with Mr. Cavano's name. The first time any memo or anything was specifically brought to my attention was in November of 1956; November of 1956.

Q. I see. A. When I was out on the West Coast. We had information at an earlier date.

Q. Earlier than that? A. Yes.

Q. When is the first time that the Committee, to your knowledge, had any information concerning either the misuse or the misappropriation of union funds on the West Coast in the Teamsters Union? A. Well, again we had an investigator, Mr. Bellino, who worked for me since January of 1955. He had worked on this very question back on the -- I believe, the McConnell Committee of the House of Representatives back in '54 or -- '54, I believe, out on the West Coast.

So he had a good deal of information at that time regarding Mr. Frank Brewster and others.

* * * * *

Q Now, what information did the Committee get from that or

96 other sources concerning the misuse of funds by the Teamsters on the West Coast? A. We learned that first regarding the close relationship -- well, the relationship that existed between the broker for the insurance, Mr. George Newell and Mr. Frank Brewster.

We ultimately learned that there was or at least there were allegations made to us that Mr. Frank Brewster had used union funds to buy a horse van for himself; had used union funds in connection with buying a car for his wife; had used union funds in connection with making -- running his horse stable.

That information had been brought to our attention. As far as Mr.

Frank Brewster is concerned we also had information brought to our attention --

THE COURT: Well, now, just a moment. I suppose necessarily a certain amount of history has got to be allowed since I have permitted some of it already, but can't we get to why this witness thought that LaPoma's information and his records were necessary for the Committee to have and within the scope of its authorized inquiry?

MR. HITZ: Yes, we can, your Honor.

THE COURT: I don't want to restrict you too much I frankly don't know where I should. I doubt very much that I am concerned with Mr. Brewster's horse stable, if he had one.

* * * * *

98 BY MR. HITZ:

Q Have you completed your answer to that? A. Well, I believe so

Q. All right, sir.

Prior to going to the West Coast in November, 1953, -- 1956 did the Committee to your knowledge have any information concerning a connection between Mr Shefferman and the Teamsters organizations in and about Seattle?

THE COURT Now, who is Mr Snefferman?

99 THE WITNESS Mr Shefferman is a labor consultant Mr Nathan Shefferman He is from Chicago Illinois And he had a close relationship with Mr Dave Beck and it was ultimately developed that it was through Mr Shefferman that Mr Dave Beck purchased with union funds some $85,000 worth of personal goods for himself

And it was out of union funds from the Western Conference of Teamsters for the most part that those purchases were made

THE COURT: Of which Local 174 --

THE WITNESS: Is a member

THE COURT: -- is a member?

THE WITNESS That is right

THE COURT All right Now, again I have interrupted you and I don t know that I can pick up the thread of Mr Hitz' question

BY MR. HITZ:

Q. I was asking what information the Committee had, to your knowledge, concerning a connection between Mr. Shefferman and those -- and the West Coast Teamster Unions in and about the Seattle area.

Now, I think in answer to the Court's question you have partially answered that question.

Would you give your full answer to it? A. Well, in addition to what I have stated, what we knew at that time was that there was a close

100 relationship between Mr. Dave Beck and Mr. Nathan Shefferman. The full details on Mr. Nathan Shefferman we did not develop until December, January and February.

Q. I see. Now, at the time that you had this information of that relationship what position in the Teamster Union hierarchy did Dave Beck hold? A. He was international president of the Teamsters.

Q. And what position did Frank Brewster hold? A. He was president of the Western Conference of Teamsters.

Q. And did he have any position in Local 174? A. I believe he was also president of Local 174.

Q. And what position did Nugent LaPoma hold? A. He was secretary-treasurer of Local 174.

Q. Did your Committee prior to subpoenaing Mr. LaPoma have any information, to your knowledge, concerning in what fashion Mr. Shefferman and his interests were paid for the goods that he obtained for Dave Beck and others? A. Yes, we did.

Q. How did Mr. Shefferman get paid, according to that information? A. According to the information we had, these purchases -- and we didn't know the full amounts --

* * * * * *

101 THE WITNESS: We found that these purchases that had been made for Mr. Dave Beck had been made with funds out of the Western Conference of Teamsters or of unions in the Seattle area.

We knew at that time that it was some out of the Western Conference of Teamsters and out of what other unions we did not have full information.

BY MR. HITZ:

Q. At that time was Local 174 one of the unions under the Western Conference in that area? A. Yes, it was.

THE COURT: Tell me, Mr. Kennedy, from your knowledge ac-
102 quired through your experience in this field, what is the Western Conference?

What does that mean with respect to the labor movement and specifically with respect to Local 174 of the International Brotherhood of Teamsters in Seattle?

THE WITNESS: Your Honor, the Teamsters are made up first of -- the first unit is the local that operates in a particular field. Above that there are what are called Joint Councils and the locals in the particular area belong to a Joint Council. I mean, you might have thirty or forty locals that belong to one Joint Council.

In New York I think you have fifty-eight different locals that belong to the Joint Council in New York and that would consist of 125,000 Teamsters in New York.

In each of these areas throughout the country there is the same type of arrangement. Mr. Dave Peck conceived the idea of having these various locals and the Joint Councils coming together in a sort of conference and splitting the country into various conferences.

And he was out on the West Coast and he conceived of the idea of having a Western Conference, and that would be made up of the eleven western states, the unions, the Teamster unions in the eleven western states.

THE COURT: Yes. Would the Western Conference, which included the eleven western states, --
103 THE WITNESS: Right.

THE COURT: -- be made up of the Joint Councils in the eleven --

THE WITNESS: Well, I think it would get down to the -- I don't think you could say it was the Joint Councils so much that you could say that it was -- it is a higher group than the Joint Councils.

It is made up of representatives --

THE COURT: Well, is it made up -- well, let's put it this way possibly. Is the Western Conference made up of representatives of locals or of the Joint Councils which, in turn, are made from the locals?

THE WITNESS: Well, I don't think it even comes down to that, that simply. I think that the representatives, the policy-making board of all of the Joint Councils and of all the locals and on occasion the -- this is a matter that we were inquiring into -- on occasion it determines the collective bargaining relationship in a -- in that particular area.

THE COURT: Yes. Well, go ahead.

THE WITNESS: Well, then subsequently, after the Western Conference was formed and Mr. Dave Beck became international president he suggested that the rest of the country split into conferences.

So they formed the Central Conference, which is chairmanned by
104 Mr. Jimmy Hoffa. Then they formed a Southern Conference and they have an Eastern Conference.

So the country is now split into these four conferences.

THE COURT: All right. Now, presumably, who appoints the members of the Western Conference?

THE WITNESS: You mean of the executive board?

THE COURT: Well, I don't know what I mean. I am asking you. I don't know what the Western Conference is exactly yet.

THE WITNESS: Well, that --

THE COURT: Is the Western Conference a group of individuals selected by the locals or the councils?

THE WITNESS: Well, I believe --

THE COURT: Or is it -- well, what is it? Again, I don't know.

THE WITNESS: I don't know how they ultimately get into their positions on the executive board of the Western Conference. I believe there are twenty-four or twenty-five on the executive board that make the decisions or make the determinations for the Western Conference.

How they get there, I do not know. The Chairman--

THE COURT: Well, I suppose for our purposes that is enough anyway.

Now, do you want the reporter to go back?

105 MR. HITZ: No. Thank you.

BY MR. HITZ:

Q. Now, I think you had just before that stated that Local 174 was one of the unions within the Seattle area from which general organization set-up there had been paid to Mr. Shefferman reimbursement for what purchases he had made for Dave Beck and others. A. Well, if I said that I didn't mean to. We had information only at that time that the money had come out of the Seattle area of Teamsters; that the key unions in the Seattle area were the Western Conference of Teamsters and Local 174 and Joint Council 28.

And we did not know at that time originally as to how it was handled as far as the money coming out of the union. So we didn't know of those three unions or those three groups where the money had come from originally.

Q I see Did the information in the hands of the Committee at the time that Mr. LaPoma was subpoenaed concerning Mr. Shefferman's purchases relate to purchases for any Teamster officials other than Mr Beck? A Yes

Q Do you know any of the other names at this time? A Well I know Mr Frank Brewster for one

Q And he, you said, was president of Local 174 at the time that you all were out on the West Coast -- A Yes, sir

106 Q -- in '56? A Yes.

Q Anybody else? A Well, I can't say this unequivocally but I thought that Mr LaPoma stated to us that he had also made some purchases through Mr Shefferman but on that I could be wrong.

Q I see A That is my best recollection.

Q Yes, sir Now, was all of the information -- excuse me I will ask you a preliminary question.

Did you in the fall of 1956 have an interview in Seattle with Mr LaPoma on behalf of the Committee? A Yes, I did

Q. When was that? A. I tnink it was December 15th, possibly 14th; 14th or 15th of 1956.

THE COURT: With whom?

THE WITNESS: Mr. LaPoma.

THE COURT: Yes.

BY MR. HITZ:

Q. Now, I would like to ask you if prior to the service of that subpoena upon Mr. LaPoma there had come to your attention the United States Court of Appeals, Ninth Circuit, decision rendered on November
107 8th, 1956? A. Yes, it had.

Q. Entitled Local 174, et cetera, against the United States. That had come to your attention before December 15th? A. Yes, it had.

Q. Approximately when did that opinion come to your attention? A. I believe the end of November of 1956.

* * * * *

108 Q. Right? Did the statement of facts set out in that court's opinion come to the attention of the Committee prior to the issuance of the subpoena for Mr. LaPoma? A. It came to my attention as a representative of the Committee.

109 Q. I see. Did the facts as set out there supplement and add to any of the information that you had already received on behalf of the Committee? A. Yes, sir.

Q. Did it supplement and add to them? A. Yes, it did.

Q. Did the statement of facts in that opinion have any bearing upon the advisability of issuing the subpoena for Mr. LaPoma on behalf of the Committee, so far as you know? A. Well, I think that it confirmed the infirmation that we had had regarding the misuse of union funds and the next step that follows, in connection with the filing of statements with the Government

MR. HITZ: Your Honor, I would like to read several sentences from that opinion in view of the fact that he said he incorporated that into the information of the Committee and that it had a bearing and added to the information at hand, all of which caused the subpoena to issue.

THE COURT: You may do so.

MR. HITZ: Thank you.

And for the record, this is No. 14,746 of the United States Court of Appeals for the Ninth Circuit of November 8, 1956; an opinion by Judge James Alger Fee, speaking for the panel of Healy, Pope and Fee

110 "This is a proceeding to obtain discovery as to certain transactions between Local 174 and one Frank Brewster, which are claimed to be pertinent to an examination into the liability of Brewster and his wife for income tax during the years 1943 to 1953, inclusive. Since results obtained by administrative subpoena were unsatisfactory, this case was initiated in the District Court.

"Frank Brewster has been for many years an employee and officer of Local 174, having acted as secretary-treasurer from 1947 through 1953 and subsequently as president. During the years 1943 to 1947, Brewster filed separate income tax returns. In 1948 he was married to Dorothy Brewster, and in the years 1948 through 1952 husband and wife filed joint income tax returns.

"In January, 1954, a special agent of the Bureau of Internal Revenue was assigned to audit all such returns. A summons was issued by him to the Local and Nugent LaPoma pursuant to Sec 7602 of the Internal Revenue Code of 1954, directing them to bring all records and books of account of the Local 'which in any way refer or relate to transactions between the said Local 174 and

111 Frank W. Brewster, Dorothy Brewster or any other person acting for Frank W. Brewster and Dorothy Brewster or either of them'. At the time required in the summons, Bassett, attorney for Local 174, Nugent LaPoma, alias George Cavano, secretary-treasurer, and Laurite Thayer Agapoff, bookkeeper and accountant for the Local, together with two other officials of the Local appeared and produced what was claimed to be an abstract from the records together with certain original records of the Local

The Local, through its officials and employees, apparently claiming a right to be the judges of what was relevant to the inquiry then being made by the special agent, refused to produce any other records. No examination of individuals under oath as to materiality or relevancy of all the books in the possession of the Union was held either by the administrative agency or at the proceedings in the District Court. In any event, the results were not deemed to be in accordance with the subpoena, and thereupon on February 8, 1955, a complaint was filed in the United States District Court, alleging that the records were
112 necessary to accertain the correctness of the returns of Frank W. Brewster which were being examined. It was alleged there was reason to believe that certain disbursements by the Local to or for the benefit of Brewster were not reported on these returns and that, after examination of the books and records, additional taxes might be found to be owed by Brewster and his wife. This complaint was supported by an affidavit of the special agent, which showed that Brewster, during the years 1943 to 1950, had received $35,500.00 in addition to salary designated on the summary of account furnished by the Local as loans which were unsecured. Since the returns do not show any payments of interest on these returns, it is claimed that the records of the Local should be investigated. Another claim was that disbursements were made to Brewster by check for expenses in December, 1952, totalling $1,748.65, and $1,500.00 to Dorothy Brewster in November, 1952, for the purchase of an automobile. The tax returns and the financial report of the Union brought to the administrative officials do not reflect these transactions. From the salary records produced, Brewster apparently received from
113 local 'other comp' as follows:

1951	$780.00
1952	810.00
1953	780.00

These were not reflected in the tax returns. There are other items claimed by the petition as follows: On July 10, 1953, a 1948 GMC horse van was repaired by a Seattle garage and paid for by the Local. In 1951, a Chrysler automobile was repaired by a Seattle garage and paid for by the Local. Brewster purchased a home in California, on which $4,000.00 was paid from funds of the Local. Brewster's personal bills at a club were paid for by the Local in 1952 and 1953. An affidavit shows that the records produced by the Union and the income tax returns do not reflect these transactions."

BY MR. HITZ:

Q. Mr. Kennedy, have you now related all of the information you can recall which to your knowledge was known to the Committee prior to the subpoenaing of Mr LaPoma which caused him to be subpoenaed by the Subcommittee? A. Well, we had a number of poeple that we talked to in this Seattle area who made allegations regarding the
114 misuse of union funds by Mr Brewster, Mr Beck and Mr LaPoma during the period of time that we were out there.

And there were many different kinds of items which we felt could only be verified by examining the records. I wouldn't want to come out and say publicly, nor did I ever until we had substantial proof, that these things were true or not true.

People came and made allegations. I do not know --

Q All right. A. But they were in addition to what you have read.

Q In addition. And did you request an interview with Mr LaPoma on December 15th, '56, in Seattle? A. I did.

Q Was that the first effort you made to contact him directly? A. Well, I think that the most of the requests were made through Mr Sam Bassett, Mr Hitz, and I think that the -- I think that was a question of seeing Mr Brewster and Mr LaPoma at the same time.

Q I see. A. I don't remember what led up to it. I remember the sequence of events as far as Mr Brewster is concerned, but I do not remember quite as far as Mr LaPoma is concerned.

Q. Did you make any effort to have Mr. LaPoma make available to you and to the Committee in Seattle at that time the records of Local
115 174? A. Yes, I did.

Q. What efforts did you make to look at the books and also to interview Mr. LaPoma? A. We stated that we would like to see the record books.

Q. Stated to whom? A. To Mr. LaPoma and to Mr. Sam Bassett, as we had stated to Mr. Sam Bassett and Mr. Frank Brewster at an earlier interview.

THE COURT: Are you still in Seattle?

THE WITNESS: Yes, your Honor.

BY MR. HITZ:

Q. When did you state this? A. This is on December 15th when we were there interviewing, after -- and we had this information. We said that we would like to look at the books and records and we gave them a subpoena at that time.

I said that it was not necessary for them to bring all the books and records back to Washington; that we would be willing to stay in Seattle and look at them out there, and it would not be necessary for them to come back and appear before the Committee.

At that time Mr. Bassett, representing both Mr. Brewster and Mr. LaPoma, said that he would take that under advisement and let us
116 know either late that afternoon -- he agreed to let us know that afternoon, which was a Saturday.

That afternoon, I believe around three o'clock, he called and said that they had decided that they would not give the records to us voluntarily; that they would take the matter up before the Committee.

And with that information, about eleven o'clock that night we left and started back.

117 Q. Well now, is that subpoena that you say you served upon him the subpoena that ultimately called him before the Subcommittee here in Washington? A. Yes, that is right. It was postponed, I think, several times. His appearance was postponed several times, and ultimately

appeared sometime the middle of January.

Q. Did you have an interview with Mr. LaPoma on the 15th, Mr. Kennedy? A. Yes.

THE COURT: Of January?

MR. HITZ: Of December.

THE COURT: December.

THE WITNESS: That is what I recited to you.

THE COURT: That is what he just told us about.

BY MR. HITZ:

Q. Have you told us all you can recall that was said to Mr. LaPoma and by him to you, or by Passett in his presence? A. No. We had a long -- we had an interview, I should think, somewhat about an hour, maybe slightly less, concerning various transactions about the union.

I think we started around nine o'clock in the morning, as I remember it, and we finished around -- I don't know -- about quarter of ten, or so. We talked maybe from thirty to forty-five minutes. I don't remember how long exactly.

118 We talked about his connection with the union, and what financial arrangements he had with the union.

We asked him how much his salary was, his compensation whether he had ever had any loans with the union, what his position was

Q. Let me interrupt. We want not your questions only, but his answers, too.

When you touch on these subjects, will you give his answers as well as your questions? A. We asked him what his compensation was; and I believe he said around $16,000 from the union.

We asked him about whether he had made any loans from the union. He said he had made a number of loans, or at least one that I can think of, to buy Campbell's Soup stock. A number of the officials of the union were interested in buying Campbell Soup stock, and they had gotten loans to obtain that stock.

We asked him about where he had come from originally; and I believe he said he had come from somewhere in the Middle West.

We asked him about the change in his name; and he explained about his wife having the name Cavanaugh, and he having gotten a nickname of Cavano.

We asked him what the policy of the union was in connection with loans; and he explained that they would make loans to officers of the
119 union, sometimes without collateral, but that he didn't feel that they would continue that policy, because they just had loaned out about as much money as they could.

Q. Have you stated all you can recall now of the conversation with -- A. That is all I can recall.

Q. -- with Mr. LaPoma? A. We probably discussed other matters, but that is all I can recall now.

Q. I see. A. I think I asked him about the Shefferman matter, but I am not sure of that.

Q. I see.

Did you ask him about any payments from the local to Mr. Shefferman, or are you not sure about that? A. I am not sure of it.

Q. Did you ask him whether or not any loans had been made to his knowledge by the local to Mr. Brewster? A. Well, I think I asked him about the loans generally. I do.

Q. I see.

Was there anything said by Mr. LaPoma to the effect that a number of officials had made loans from the union but that because of problems connected with collecting those loans, that since he had been
120 secretary-treasurer, he had made none? A. I believe he did say that.

THE COURT: What do you mean when you say that he had made none?

THE WITNESS: That he wouldn't allow any more loans to be made since he became secretary.

THE COURT: But he told you -- I think you said -- that he had borrowed money?

THE WITNESS: That he had borrowed money.

THE COURT: Did he say whether he had paid it back?

THE WITNESS: I can't answer that. I don't remember, Your Honor.

BY MR. HITZ:

Q. Did he say whether he paid interest for his loan? A. I know that there was discussion about interest, and I know that some of them -- was discussion about the fact that some were collateral free and some of them were interest free; and my recollection is that he felt that this practice should not continue.

I don't remember what he said about his specifically, I am afraid.

Q. Now, at what point in this interview did you serve the subpoena upon Mr. LaPoma for appearance before the Committee in Washington? A. At the end of the interview.

121 Q. Prior to that --

THE COURT: Well now, by that do you mean after Mr. Bassett had called you and said that they decided not to do it?

THE WITNESS: No, sir.

THE COURT: Or before?

THE WITNESS: Before. While we were there. At the end of the interview with Mr. Brewster, Your Honor, we had this conversation.

I served him with two subpoenas for the Western Conference and this Joint Council we have been discussing. At that time, he said he would take this under advisement.

Then Mr. Brewster left the meeting, left our interrogation; and Mr. LaPoma came into the room and sat down.

Now, I served him with a subpoena, I think, at the end of that and it was going to be the same arrangement. Mr. Bassett was going to call us on all three subpoenas that afternoon.

THE COURT: All right.

BY MR. HITZ:

Q. Now, was it your request of Mr. Bassett that you be allowed to look at some or all of these books while in Seattle so that he would not have to bring them to Washington in response to the subpoena? A. Yes, it was

122 Q. And it was that that he gave the negative answer to? A. That is correct.

Q. Is the subpoena that you served upon him the one that is set out on Page 7 of the Report of Citation, which is part of the citation of the -- A. Yes, sir.

Q. -- Senate, being Government No. 9? A. Yes, it is.

MR. HITZ: That is on Page 7 of the accompanying report, Your Honor.

BY MR. HITZ:

Q. And that calls for his appearance before the Subcommittee in Washington on January 15, '57; and then Mr. LaPoma actually appeared and testified, did he not on two occasions here in Washington? A. Yes, he did.

Q. On the 16th and the 19th of January of '57? A. That is correct.

Q. Now, I would like to go back to the procurement investigation that in the fashion you have related led to what you have related.

Did the Committee decide upon any effect, to your knowledge, that this labor situation that you ran into in New York caused with respect

123 to the type of material that was furnished under the Government contracts and the cost of that material? A. Yes, we did.

Q. What effect upon the cost and the quality of the material did the Committee ascertain resulted from these practices, in part?

MR. PICKENS: I fail to see any relevancy, Your Honor. I would like to know how it is relevant to this inquiry.

THE COURT: I think I can see the relevancy.

They start out on one investigation which leads them into really a wholly different one out on the West Coast, but then, apparently, it connects back again to the original investigation.

MR. HITZ: No, my question related --

THE COURT: Am I wrong about that? Perhaps I don't understand it.

MR. HITZ: The last part of it, Your Honor.

I was asking him what effect they learned that the New York labor

practices that he ran into concerning the manufacture of the goods, the transportation of the goods by the Teamsters --

THE COURT: Well, if that is your question, I don't see the materiality of it either.

MR. HITZ: Very well.

THE COURT: I sustain the objection.

124 Let me ask you something, Mr. Kennedy.

How, in your mind, when you were interrogating Mr. Brewster and Mr. LaPoma in Seattle, did you think your interrogation and your request to see the books were germane to the inquiry that your Committee was conducting?

THE WITNESS: Well, let me put it this way, Your Honor.

We can conduct preliminary investigations under our rules.

THE COURT: Which may or may not develop into something?

THE WITNESS: That is correct.

Now, we had made the first inquiry that I discussed with you in '56. This led logically into this other investigation.

In the course of that investigation, we came across the material and information that we didn't feel was part of the investigation that we initially had been conducting.

Secondly, we came across material and information that we thought we couldn't have hearings on because it was outside our jurisdiction.

There were matters that we uncovered regarding so-called racketeering in labor unions that we felt were beyond the jurisdiction of the Committee, and a determination would have to be made before we had hearings, a request would have to be made from the Senate to get that jurisdiction.

But there were certain facets of this -- although it might not just
125 be the procurement investigation I discussed in '56 -- that we did have jurisdiction over, and which we should inquire into.

We found, for instance, in this New York thing, when we got into this procurement business in some of these unions -- excuse me.

THE COURT: I am concerned about Seattle and LaPoma.

THE WITNESS: I was going to explain the same type of thing we uncovered in Seattle.

We found that some of the unions up there that we came across in the procurement investigation were making out checks, large numbers of checks to people in fictitious names. That the funds of the union were being milked in that way. That people who did no work or didn't even exist were getting large amounts of money.

So we made an inquiry in early November, even before I went to Seattle, to find out how these unions had filed their reports with the Labor Department, how they had listed these people that didn't even exist.

THE COURT: That is what you thought was germane?

THE WITNESS: So that when we got into Seattle, we found the same situation of large amounts of money going, which perhaps would not be reported to the Labor Department and would not be reported to the Government as it is supposed to be reported. Just as we had found the situation that existed in New York City.

126 And so we inquired into that; and when I got back from Seattle, after we had uncovered this information, we made an immediate request of the Labor Department to find out how these people had reported these things.

We found out then that, for instance, the Western Conference of Teamsters never even files a financial statement, although they handle hundreds and hundreds of thousands of dollars.

THE COURT: Financial statement?

THE WITNESS: With the Labor Department.

The Government, under their interpretation of the law as to whether the intermediate organization between the local, which we were discussing, and the International, holds that the local has to file and the International has to file -- the International Brotherhood of Teamsters-- but the intermediate organization, such as the Joint Council or Western Conference, the Government was confused as to whether they should file reports at all.

And we inquired into -- it was the intent of Congress to get labor

unions to give complete financial accounting, so that the Government would know and labor union members would know now their money was being spent.

What was the point in having the local and International file, and not having the Joint Council, which handles hundreds of thousands of dollars, and the Western Conference of Teamsters, which handles
127 hundreds of thousands of dollars, file. Why not have them file?

The second thing we were interested in was the locals, whether they filed accurately or not.

We made further inquiry, Your Honor, and found that under the interpretation of the law, from the Labor Department and the head of the NLRB, that even if those locals file inaccurately -- the reports that the locals file do not have to be accurate under the present interpretation of the law.

So you have the incongruous situation that the locals file, and their reports do not have to be accurate, according to the Secretary of Labor and Chairman of the NLRB, and the second situation, where the intermediate organizations don't file reports at all, and the Government doesn't know anything about that.

So that was the matter that we were inquiring into in January, and in which we were interested, which the Committee decided to go ahead on that kind of investigation.

THE COURT: I understand.

BY MR. HITZ:

Q To your knowledge, Mr. Kennedy, did the Committee have any interest in determining whether or not the use or misuse of union funds would be reflected in the information returns that were filed by unions with the Internal Revenue Department in pursuance of the tax-
128 exempt policy of the statute? A. Yes, we were very interested If I -- very interested

Q To your knowledge, Mr. Kennedy, when did the Committee first become aware of the requirement of filing financial statements with the Labor Department and of filing information returns with the Internal

Revenue Department? A. Well, I remember on the Internal Revenue Department during 1955.

As far as with the Labor Department, I remember in June or July of 1956.

Q. Now, Mr. Kennedy, in the month of November, 1956, and with respect to the New York Teamster local unions, did you cause a letter to be sent to the Labor Department requesting that they furnish financial statements filed by those New York local unions to your Committee? A. Yes; that was in early November of 1956; and it was the letter that I was discussing with His Honor that we sent over there, and requested these reports that had been filed with the Labor Department by these New York locals.

Q. And did they furnish to your Committee that information? A. Yes, they did. They did.

129 Q. Did you issue any instructions with respect to an analysis of the financial reports thus furnished to the Committee? A. Yes.

Q. And was such an analysis made by someone? A. It was.

Q. By whom? A. By Mr. Adlerman.

Q. And was that shortly after the receipt of those documents? A. It was.

Q. Did you receive the documents shortly after you requested them? A. Yes. We had requested them verbally first; and then we requested them in writing; and we received them within a day of the time we requested them in writing.

THE COURT: Who is Mr. Adlerman?

THE WITNESS: Chief assistant counsel.

THE COURT: Of what?

THE WITNESS: Of the present Committee. He was the assistant counsel on the Senate Subcommittee on Investigations at that time.

BY MR. HITZ:

Q. Well, do you recall about when it was Mr. Adlerman requested in writing that the Labor Department furnish these reports? A. I believe

130 it was the third or fourth, possibly the fifth of November of 1956.

Q. Prior to that, had you or had Mr. Adlerman made efforts to obtain those reports without a written request? A. Yes, we had.

Q. How much earlier than the early part of November was that? A. Well, I think it was within the prior two weeks of the first week in November.

Q. Now, did you make any efforts, after obtaining the information you have related here with reference to Local 174, to obtain from the Labor Department the financial statements that had been submitted by 174 to them? A. Yes, we did.

Q. About when did you make that request to the Labor Department? A. I think it was sometime in January, early January.

Q. Anyway, before the testimony of Mr. LaPoma? A. Yes

Q. Now, in this connection, did you go to see the Secretary of Labor prior to the testimony of Mr. LaPoma? A. I did. I went to see him

Q Approximately when did you go to see him? A. The end of December, I believe, of 1956. Might have been early January I think
131 it was the end of 1956 Right after Christmas, I believe

Q Don't answer this question until Mr. Pickens has had an opportunity to object, if he cares to.

Would it refresh your recollection that Mr. Mitchell, the Secretary of Labor stated it was on January 4, '57? A Yes

Q About then? A. Yes, it must have been then I thought it was right after Christmas, but it might have been right after New Year's

Q. Did you likewise go to see Mr Boyd Leedom, Chairman of the National Labor Relations Board? A. I did.

Q. And do you know about when that was? A. That was in early January

Q 1957? A 1957

Q That was before Mr LaPoma testified? A. That is correct

Q. Would you tell us briefly what it was you discussed with those two men, please, sir? A Well, with Secretary Mitchell we discussed generally the investigation that we had been conducting, what we had found
132 to be some of our problems

THE COURT: Well now, that has not been objected to, that question, I mean; but I don't see how it is going to help me to have Mr. Kennedy tell us what he and Mr. Mitchell said to each other.

MR. HITZ: Well, it will show the legislative interest by this Subcommittee in the governmental activity side of this investigation.

Mr. Pickens contends that it was an unauthorized excursion into the field of labor racketeering in the sense divorced from any governmental activity.

This will show a legislative interest in the very field of Government activity.

THE COURT: All right.

BY MR. HITZ:

Q. Did you discuss with Mr. Mitchell at that time, on behalf of the Committee, the requirements of filing financial statements in a general way? A. Yes, we did.

* * * * *

133 Q. Let's make sure that you did.

My question was, did you discuss with the Secretary of Labor in a general way the requirement of financial statements to be filed by labor unions? A. I believe we did.

Q. Yes, sir.

And with the Chairman of the Labor Relations Board, did you discuss with him his responsibilities and activities in connection with the Taft-Hartley Act? A. That was the primary purpose, topic of conversation.

134 Q. Were those general conversations concerned with their participation in --

MR. PICKENS. Your Honor, I don't object to some leading questions, but I would prefer that if Mr. Kennedy is going to testify that he tell us exactly what he discussed, and not have Mr. Hitz ask him if he discussed that.

THE COURT: I think your objection is technically sound.

MR. HITZ: I think it is.

THE COURT: What is going to result from it is that you get more testimony and not less out of Mr. Kennedy

BY MR. HITZ:

Q. What was the general nature and scope of your conversations-- we have already gone over the Secretary of Labor's conversation with you and you with him -- the scope and nature of your conversation with Mr. Leedom on the subject? A. Well, I went over and saw Mr. Leedom and visited with him.

We went into the general discussion about the filing of these financial reports with the Labor Department, the connection between the Labor Department and the NLRB, how they operate.

When the financial statements are filed with the Labor Department, they then send a post card over to the NLRB; and that the NLRB then once they receive that post card, can go ahead and grant access to the National
135 Labor Relations Board to these unions that have filed.

THE COURT: Well now, what did he think gave them the right to do that? What did he think was all he was required to have to do that?

THE WITNESS: He thought -- under the law, Your Honor, the unions must file --

THE COURT: File what?

THE WITNESS: -- file these financial statements, as well as the non-Communist oaths

THE COURT: Yes.

THE WITNESS: They file with the Labor Department.

THE COURT: Yes

THE WITNESS: They have to file if they want the use of the National Labor Relations Board.

THE COURT: Are you telling me what you know is the practice, or what Mr Leedom told you?

THE WITNESS: That is what he explained to me.

THE COURT: Exactly. Go ahead.

THE WITNESS: All right

So that they file, if they want the use -- this is what we discussed

They file if tney want the use of the NLRB. Now, once tney file with the Labor Department, the Labor Department then sends a post card over to the NLRB, saying, this particular union has filed.

136 THE COURT: Just that?

THE WITNESS: Right.

THE COURT: No more?

THE WITNESS: That is all.

Then the NLRB tells the union that tney can use, have access to the National Labor Relations Board.

THE COURT: And that is all it requires?

THE WITNESS: This is what we got into as our problem which we were primarily interested in.

THE COURT: Yes.

THE WITNESS: Was what happens if these reports that are filed with the Labor Department are false. What do you do?

Now he said: That is not our responsibility.

THE COURT: This is Leedom?

THE WITNESS: Yes.

That is not our responsibility. That is the Department of Labor's responsibility.

THE COURT: What did Mr. Mitchell have to say to that?

THE WITNESS: The, said, the Department of Labor then said: Under the present law, we feel that even if the report is false -- say, the union files a report with us and says at the same time, this report is false, and there is nothing you can do about it, they still have to send the post card over, because all that is required under the law is to file the

137 report. It doesn't have to be accurate.

That was one problem for us in which we thought the Government should interest itself, and the Legislative Branch of the Government should interest itself.

Second thing we asked, where are the financial reports of the Western Conference of Teamsters and some of these Joint Councils?

At that time, they said: There is no Western Conference.

THE COURT: There weren't any?

THE WITNESS: Doesn't file.

THE COURT: Weren't any.

THE WITNESS: Some of the Joint Councils file and some do not. The Western Conference of Teamsters --

THE COURT: But they weren't required to; is that right?

THE WITNESS: Under this interpretation of the law, they are not required to.

THE COURT: Of what law?

THE WITNESS: The Taft-Hartley Law, 9 (g), (h); and a decision has been handed down by the Supreme Court.

THE COURT: Well, all right.

* * * * *

141 DIRECT EXAMINATION (resumed)

BY MR HITZ:

Q. Mr Kennedy, towards the end of yesterday's session we were discussing contacts made by you for the Subcommittee with the Secretary of Labor, with the Chairman of the Labor Board and with the representatives of the Bureau of Internal Revenue.

You related your recollection of the conversation that you had with the Secretary of Labor, Mr. Mitchell, and you agreed that it was on the 4th of January 1957.

142 Tell me, after that interview that you had with Mr. Mitchell, did you arrange a meeting with him and Senator McClellan and yourself over at the Senate? A. Yes, I did.

Q. How long after the meeting that you had with the Secretary? A. Well I think it was about ten days. It was a week or ten days afterwards.

Q. Was that still before the first of these Teamster witnesses, meaning Brewster, LaPoma, Mohn, and -- A. Yes, it was.

Q -- the others who have been cited?

And also prior to the date of January 16th, which is the first day that any hearings have been published in these -- A. Yes.

Q. -- hearings here? Can you tell us generally the scope of the conversations that were had in your presence with Mr. Mitchell on that occasion at the Senate? A. Well, I think on the first meeting we discussed labor unions in more general terms. At this meeting that we had with Senator McClellan We discussed specifically the filing of forms with the Labor Department, forms that we discussed yesterday.

We discussed labor unions generally and some of the problems,
143 but we discussed these forms that have to be filed. And --

THE COURT: And also did you discuss the Labor Relations Board --

THE WITNESS: Yes.

THE COURT: -- aspect of the matter?

THE WITNESS: And their participation in this whole business, and what forms have to be filed and again what the -- what processes the Labor Department goes through as far as the National Labor Relations Board is concerned.

And we discussed to my recollection -- we also -- to the best of my recollection, we also discussed whether these reports have to be accurate or whether they can be inaccurate and if there is anything that the Labor Department feels that they can do about it.

This, of course, we developed more fully at the hearing, but I believe that we also discussed it at that meeting with Senator McClellan. I am sure that we did.

BY MR. HITZ:

Q. And by "the hearing" do you mean the testimony that Mr. Mitchell actually gave at the commencement of these hearings -- A. Yes

Q. -- at which LaPoma -- A. In which we developed fully that
144 these forms have to be filed with the Labor Department and the relationship with the National Labor Relations Board, and the fact that these forms, according to their interpretation of the law, do not have to be accurate.

Q. I see Now, with reference to your conference with Mr.

Leedom I think you testified it was several days after your first conference with Mr. Mitchell. A. That is correct.

Q. And that time were the forms and the certification of the particular union to the Labor Board discussed with Mr. Leedom? A. Yes, they were fully.

Q. And subsequently, did you arrange a conference with Mr Leedom and Senator McClellan -- A. I did.

Q. At which you attended? A. I did.

Q. Was that before the testimony of these Government officials which opened these hearings? A. Yes, it was.

Q. And then Mr. Winkle, the Assistant Commissioner of Internal Revenue, did you have a conference with him prior to the commencement of these hearings? A. I did

145 Q. Do you recall the date?

THE COURT: How do you spell that name?

MR. HITZ: W-i-n-k-l-e.

BY MR. HITZ:

Q. Was that prior to the commencement of these hearings? A. It was

Q. Do you know about the date of that? A. It was early in January of 1957.

Q. And would you state what it is that was discussed with Mr Winkle? A. Well, we discussed initially, of course, the fact that labor unions are tax exempt. And we discussed the fact that because they are tax exempt whether the Internal Revenue Department makes any examination of their tax returns.

THE COURT: Whose tax returns?

THE WITNESS: The returns of these labor unions. They have to file --

THE COURT: The union?

THE WITNESS: The union itself. They have to file, I believe sort of informational returns. Although they don't pay taxes they have to file some yearly report.

And they said at that time, -- Mr. Winkle and his colleagues said at that time because they are understaffed that the returns that they examine are, for the most part, only those returns from people who pay
146 taxes; that they do not feel that it is worth while employing people to examine tax returns of tax exempt organizations.

So we, in turn, pointed out, well, what if the tax exempt organization is being used merely as a subterfuge and is being used merely as a source of illegal income for a few individuals, and they said that if that kind of information was brought to their attention that they would examine into it to determine whether the tax exempt status should be withdrawn.

But they said that they had not made any of that -- any of that sort of examination in the past.

We then discussed the decision up in the Ninth Circuit which stated that -- in connection with Frank Brewster where the court held that the Internal Revenue Department dould not have an examination, a complete examination of the books of the labor union even though they found that -- or even thought they had information to believe that some of the funds of the labor union were being siphoned off to the personal benefit of Mr. Frank Brewster who was an official -- whether they felt that a law should be passed or whether some steps should be taken to withdraw the tax exempt status of a union which denied access of their books to the Government, because on the basis that a tax exempt status is a privilege rather than a right.

147 We discussed all of these matters.

BY MR. HITZ:

Q. Now, I believe you testified yesterday that the matter of the filing of financial reports by unions with the Internal Revenue Service came to the Committee's attention, and particularly to you as its representative, in 1955. A. That is correct.

Q. And that with reference to financial reports that had to be filed with the Labor Department, that matter and the fact of that filing came to your attention in 1956? A. That is correct.

Q. I would like to ask you whether in 1956 and prior to the subpoenaing of Mr. LaPoma on December 15, you had received from any sources other than the Labor Department -- now, I am not suggesting that you did receive it from them but did you receive it from any other source -- that there might have been or that there were misrepresentations and failure to divulge financial transactions to either or both, the Internal Revenue or Labor Department? A. Yes, I did.

Q. Mr. Kennedy, did the Subcommittee on Investigations of the Government Operations Committee hold a conference, an executive conference, on or about January 10, 1957? A. Yes, we did.

Q. Would you tell us what was the nature of that gathering?
148 Was it an organization meeting? Was it an informal conference or just what was it? A. Well, I think it was more in the form of an informal conference that we had on January 10th.

Q. You were present at the conference, were you? A. I was.

Q. And who of the Subcommittee were present? A. Well, at that time we only had six members because the seventh member, Senator Bender, had been defeated in Ohio and so he wasn't back.

So instead of being a seven-man Subcommittee we had six members and all six members were present: Senator McClellan, Senator Jackson, Senator Symington, Senator Irving, Senator McCarthy, and Senator Mundt.

Q. Now, would you tell us what took place at that conference? A. Well, we discussed the investigations that we had been conducting during the recess when Congress was out, particularly the information that we had uncovered out on the West Coast and some of the other information that we had uncovered in our investigation.

Q. Let me interrupt you there.

Did that investigation consist of information that had come to you and the staff members only or did it also embrace executive testimony in
149 some instances? A. I don't understand the question.

Q. Well, now, did you testify yesterday that when you all were out on the West Coast in November or about, of 1956, that in addition to holding some or conducting some investigations that you also had some hearings; that is the taking of sworn testimony? A. Yes. Yes.

Q. Was that before Committee members?

THE COURT: Who had the hearing?

MR. HITZ: I am just asking the question.

BY MR. HITZ:

Q. Was that before members of the Committee? A. Yes. We had an executive hearing, a group of executive hearings on the West Coast on, I believe, November 6th, 7th, or 8th.

THE COURT: By the Committee?

THE WITNESS: By the Committee, yes.

Q. Now, with that background, tell us what it is that took place at this meeting that had to do with the investigation of labor racketeering, so-called.

When you say that you related what took place in the investigations do you include sworn testimony at hearings on the West Coast? A. You
150 mean reciting what had taken place out there?

Q. Yes. A. Well, I think that we touched on that or went into it, but I think that we discussed whatever activities that we had taken -- we had done during the period of the last few months.

Q. I see. A. And specifically we went into what we had uncovered as far as this situation involving Mr. Brewster, Mr. Beck, and these reports and files from the Western Conference of Teamsters, and from the unions out in the Seattle area.

And we discussed -- I briefed the Committee on what we had found in our investigation. We found this misuse of union funds and that -- what we felt, at least, -- an alleged misuse or misappropriation of union funds.

And we discussed the fact that these labor unions had to file with the Labor Department and that the labor unions were tax exempt and we discussed -- I briefed the Committee on the fact that the Labor Department had felt at that time, and the National Labor Relations Board had felt at that time that there wasn't anything that they could do about these things, these reports, even if they were inaccurate because under the law and their interpretation of the law as long as the reports were filed it did not matter whether they were accurate or inaccurate.

151 And I duscussed the fact that the Treasury Department had had this problem on the West Coast as far as the tax exempt labor union refusing to turn over their books, and that the Ninth Circuit Court had upheld the right of the labor union to refuse to turn over their books and whether there shouldn't be or whether there is a possibility that legislation was needed in this field.

And that the -- we also discussed our conversations that we had with the Treasury Department about the fact that the tax exempt -- that unions being tax exempt and where there was a misappropriation of union funds or where the union funds -- this tax exempt organization was being used merely as a conduit for illegal income, whether the Treasury Department felt that the tax exempt status should be withdrawn from the union.

We discussed all of these matters. And I also discussed and told the Committee that the Teamsters on the West Coast were going to raise the question of the jurisdiction of the Committee, and --

THE COURT: How did you know that?

THE WITNESS: Because I was told at that time. I was told by Mr Bassett on a number of different occasions.

THE COURT: Who was he, Mr. LaPoma's lawyer?

THE WITNESS: Yes. And I was also told that they were going to

152 raise the question of the Fourth Amendment, that the subpoenas that we had served on them, they felt, were too broad in scope, and I recited that to the Committee; that these two questions would be raised but that we felt that we had enough information; on the question of the Fourth Amendment that we had made it particular enough so that we felt that we were on good grounds on that;

And we had enough definite information that we felt that we were entitled to the records, and I said that on the basis -- on the question of the jurisdictional problem, that the Teamsters were going to raise. I felt that we were on strong grounds there because of the fact that the -- this Labor Department, this situation that existed in the Labor Department, and which the Secretary of Labor had recited to us and that the -- Mr Leedom, the Chairman of the National Labor Relations Board had recited

to us as No. 1, and No. 2, the situation as far as the Treasury Department;

That clearly this was a Government operation that the Committee should become interested in; that there was obviously and which it was admitted to us that there was a deficiency in the law; that there were 39,000 of these reports every year filed with the Labor Department; that nobody looks at them; the Government doesn't look at them; that the law, as written at that time, they couldn't be made public, --

153 MR. PICKENS: I think he has gone way beyond your Honor's question and Mr. Hitz' question.

THE COURT: No, I don't think he has. I will let the answer stand.

MR. PICKENS: I am sorry.

BY MR. HITZ:

Q. Have you fully answered, Mr. Kennedy, -- A. Well, --

Q. -- the Court's question? We will come back to mine because the Court asked his question -- A. I would like to explain, if I could, about these reports that are filed.

THE COURT: Yes. I thought you had but go ahead.

THE WITNESS: They recited to us that 39,000 of these reports --

THE COURT: Who?

THE WITNESS: The Labor Department.

THE COURT: Yes?

THE WITNESS: That 39,000 of these reports are filed every year.

THE COURT: Yes?

THE WITNESS: That as the law is written or their interpretation of the law at the present time, these reports cannot be made public so that the general public or newspapers or anybody else cannot see the reports. That is No. 1.

154 That the Government doesn't examine the reports because it doesn't matter whether they are accurate or inaccurate. So the result is that all they do is 39,000 of these reports are filed every year and they -- the only thing that they do is to take up space in the Government building, because nobody looks at them and nobody has to look at them;

And that we felt that either the law should be changed and rescinded where it wouldn't be necessary to file the reports or if it was necessary to file the reports that they should be allowed to be made public. No 1

And No. 2: That there should be some examination to determine whether they should be accurate or inaccurate. And we recognized at that time that the problems if they were -- had to be examined --

THE COURT: Now, "we" recognized --

THE WITNESS: We discussed all of these matters.

THE COURT" Who is "we"?

THE WITNESS: Well, the Committee discussed this and discussed this at that time and at the hearings that followed later on, --

THE COURT: All right.

THE WITNESS: -- your Honor.

BY MR. HITZ:

Q. When you say "we" discussed that are we still speaking of the
155 conference of January 10 at which you were present and all six members, then members, of the Committee -- of the Subcommittee were present? A. I can say this: That we discussed at that meeting - we discussed these basic principles, Mr. Hitz. I don't know whether it went into detail at that meeting or whether it followed at the hearings that came later on.

I know the matters that I have recited here were brought out at that meeting and, and/or at the hearings that followed later on.

I don't know whether we went into the detail that I have recited at the meeting that you asked me about.

Q. Can you tell us, does your recollection go to whether or not the matter of the expressed inability of the Labor Department to check the accuracy of the reports filed was taken up? A. Well, I know that was taken up. The only question I have is whether we got into the figure of 39,000 of them being reported every year.

Q. Oh, I see. A. But I know that we did take up -- I can testify I know that we did take up the fact that the Labor Department and the NLRB felt that they were unable to examine into whether these reports were accurate.

Q. I see. Now, had you, in your investigation of labor racketeer-
156 ing up to this point, come across instances where the Teamsters Union on the West Coast -- by that I mean any part of the hierarchy of the Teamsters Union -- were alleged to have engaged in some sort of local political or criminal activity?

Just answer we did or did not. A. Yes, we did.

THE COURT: Well, now, if you propose to go into that then I want to know in advance why.

MR. HITZ: Yes, sir.

THE COURT: Because I can't see on the face of it --

MR. HITZ: Well, I am not contending that we are in that field They did go into it.

THE COURT: You asked the question.

MR. HITZ: I know I did.

THE COURT: Well, I want to know whether you intend to pursue it.

MR. HITZ: I do intend to pursue it in this way, and I will make my answer to that. They engaged in an investigation on the West Coast which led into that field, among others.

THE COURT: Yes.

MR. HITZ: They were aware of the situation.

THE COURT: Yes.

MR. HITZ: That matter was stated by Mr. Kennedy to the six
157 members of the Subcommittee in this conference on January 10. It had been theretofore discussed by Mr. Kennedy with the Chairman, Senator McClellan.

At this particular conference Senator McClellan summarized the situation of the jurisdiction of the Subcommittee by stating that the material which had come to the attention -- not which had been investigated -- but which had come to the attention of the Subcommittee staff in pursuing this whole matter, all the way from procurement of uniforms up to where they ended in Seattle, embraced three areas of jurisdiction;

That the three areas were: One, the area in which the Committee clearly had jurisdiction, where it involved the two Government activities that he has mentioned and which the Chairman restated to the Subcommittee, Area No. 2, where it was borderline jurisdiction material; Area No. 3, where --

THE COURT: Well, what was the borderline jurisdiction?

MR. HITZ: The borderline was where some of these activities of a local nature had some connection with the Government activity of the Labor Department because they embraced the use of local funds for local matters, --

THE COURT: Well, --

MR. HITZ: -- of a racketeering nature

THE COURT: -- that, I think, is where you and I part, probably.

158 MR. HITZ: I am not parting.

THE COURT: Well, you want to go into it and it is my feeling at the moment that I won't let you. So I think we are parting.

MR. HITZ: I am expressly excluding that material.

THE COURT: Well, you asked him whether he investigated or they discussed or both some criminal activities on the part of --

MR. HITZ: But I hadn't finished my statement about this, your Honor. At this conference the Chairman of the Subcommittee excluded from the jurisdiction of the Committee, and the future hearings, the material that I now admit, and you say, too, would be beyond the jurisdiction. He excluded it.

I am leading up to his statement of exclusion.

THE COURT: Well, so why do we want to talk about it or hear about it at all?

MR. HITZ: Well, I can't suggest that he excluded something that we don't know existed.

THE COURT: I still say that I don't think I want to even hear about it. Why don't we stay with what the Chairman or the Committee thought was within their jurisdiction?

And up to now it is my impression, at least, without having heard

159 arguments to the contrary, that what the witness has testified probably was within their jurisdiction, but I can't see how local criminal activities which don't have any affect on Government operations could possibly be. And I don't care whether the Chairman excluded it.

If your theory is that he recognized what he was entitled to hear and recognized what he wasn't entitled to hear then I don't think I want to be troubled with what he recognized himself he wasn't entitled to hear.

I want to know what he thought he was entitled to hear and I will decide whether he was or wasn't.

MR. HITZ: Yes, sir.

* * * * *

161 BY MR. HITZ:

Q. Mr Kennedy, in early January, 1957, did the Chairman of the Investigations Subcommittee offer a resolution for the conduct of an investigation in this field?

162 THE COURT: What field?

MR. HITZ. The field of labor racketeering.

THE WITNESS: Yes, he did

BY MR. HITZ:

Q. Now, would you be good enough to define what, to your knowledge, was the understanding of the Committee of the term "labor racketeering"? A. Well, it got into the misuse of union funds and that was what at that particular time was our primary interest because that got into the question of these reports that were filed with the Labor Department and with the Treasury Department;

The misuse of welfare and pension funds, which is the second category; collusion between labor and management to the detriment of the union members; bribery by management, you know, offering of a bribe and acceptance of a bribe; extortion --

THE COURT: To management?

THE WITNESS. From management to labor. Extortion, which would be extortion of labor against management; the use of violence and terrorism in labor unions; the lack of democratic rights within labor unions

I would think that -- it was about seven categories, broad categories in which we would assume to be labor racketeering.

163 BY MR. HITZ:

Q Now, did the Chairman offer S. Res. 14 in early January of 1957? A He did

THE COURT Do I have that as an exhibit?

MR. HITZ. You do not, your Honor

THE COURT All right

BY MR. HITZ

Q. Do you remember the day that he offered it? A. It was the 5th or 7th of January? 7th of January?

MR. HITZ: Any objection, Mr. Pickens, to enlightening him on that?

THE COURT: The answer, Mr. Hitz, is really a question to you. Do you have the date?

MR. HITZ: Yes, I do have the date.

THE COURT: All right. Tell him what it is.

MR. HITZ: It is the 7th.

THE COURT: All right. You guessed right the first time.

BY MR. HITZ:

Q. Mr. Kennedy, it is the 7th. Does that refresh your recollection that it is the 7th? A. Yes, it does. The 7th.

Q. Now, at or about that time did Senator Ives of the Senate Labor Committee offer S. Res. 13 on somewhat the same subject?

164 A. Yes, he did. I believe on the same day.

Q. On the same day, you think? A. (The witness nodded affirmatively.)

THE COURT: Now, I am afraid I am going to have to move in again for my own information.

Do you propose now to go into the resolution offered by Senator Ives to create, which later was done, the Select Committee?

MR. HITZ: No, I am not going into that. I am going to mention it in passing for this reason: That there will be a strong contention made--I think it has been made already -- in this case that the fact of the setting up of the Select Committee ultimately and of the efforts by Senator McClellan and by Senator Ives individually to set up other committees had some bearing --

THE COURT: I know. That statement was made in the opening statement of Mr. Pickens and I indicated, rather clearly I thought at that time, that I was not receptive to it.

Now, do you want to anticipate him and do the very thing that I think neither one of you can do?

MR. HITZ: No, your honor.

THE COURT: Well, you had better tell me more.

MR. HITZ: In the meeting, the executive meeting, of January 14,

165 1957, which is Government's Exhibit No. 5, the Permanent Investigations Subcommittee of Government Operations Committee was appointed by the Chairman. That was the so-called organizational meeting.

You will note that it took place four days after the conference. We call the other one a conference. At that meeting of the 14th it was stated, according to the minutes and on Page 2 thereof, that Senator McClellan informed the Committee that hearings would begin before the Subcommittee on the following Wednesday and Thursday of the same week.

And this particular item of the minutes is entitled "Labor Racketeering Investigation", and I am quoting now:

> "* * *that a question of committee jurisdiction had arisen between this committee and the Committee on Labor and Public Welfare. He also stated in the event that the Subcommittee on Investigations was to undertake the investigation, it would be necessary to have additional funds."

And that is the end of the quotation on this particular item. That is a matter in evidence because it is the organization meeting for this year of this Subcommittee.

THE COURT: All right.

MR. HITZ: Since the expression that a question of Committee jurisdiction had arisen between this Committee and the Labor Committee

166 because that is stated there and because that is open to two possible interpretations -- one is that the question of the jurisdiction of those two committees could be that the Government Operations Subcommittee lacked jurisdiction or it could be that the question was which of the two, both having jurisdiction, should be given the investigation as a matter of policy.

In other words, is it a policy matter or a jurisdiction matter?

THE COURT: Well, --

MR. HITZ: In view of the fact that this necessary exhibit expresses that question and since it is open to two interpretations, I felt that it should be explained and the way to explain it would be to get the Chairman's view of the matter.

THE COURT: I think you are right.

* * * * *

168 MR. HITZ: I would like to offer these minutes and make them Government's No. 11.

* * * * *

169 THE COURT: For the Clerk's purposes, describe No. 11.

MR. HITZ: Yes, your Honor. Minutes of Subcommittee, January 10, 1957.

(Thereupon a document identified as Minutes of Subcommittee, 1/10/57, was marked by the Deputy Clerk as Government's Exhibit No. 11 and received in evidence.)

MR. HITZ: May I read them now, your Honor?

THE COURT: Yes. You don't want Mr. Kennedy's testimony first?

MR. HITZ: No, I am satisfied with the minutes here.

THE COURT: All right.

MR. HITZ: (reading)

"The Senate Permanent Subcommittee on Investigations of the Committee on Government Operations met pursuant to notice at 4:15 p. m., on Thursday, January 10, 1957, in the office of Senator McClellan, Room 137 of the Senate Office Building, the Chairman presiding. Also present were Senators
170 Jackson, Symington, Ervin, McCarthy and Mundt, together with staff members Robert Kennedy, James N. Juliana, Jerome S. Adlerman, Carmine S. Bellino, and Ruth Young Watt.

"The Chairman stated that as a result of the testimony in the procurement services of the military before this Subcommittee, it was indicated that there was a nationwide condition with respect to labor racketeering and that, under the authority he has, he authorized the staff to conduct the preliminary investigation. During the course of this inquiry, a subpoena was issued on a bank, returnable on the 15th of January, and the labor union involved went into a State Court

and enjoined the bank from responding to the subpoena. The Court dissolved the injunction and the bank is now free to comply with the subpoena, but the judge gave the labor union until the 11th of January to take the action to the Supreme Court "

BY MR. HITZ:

Q. I would like to interrupt, if I may, and ask, Mr. Kennedy: Is that the Supreme Court of the United States that they were
171 seeking to reach or the Supreme Court of the State of Washington?

A. The latter, the State of Washington.

Q. Thank you.

MR. HITZ: Now, reading without omission, your Honor:

"The Chairman then stated that he anticipated that he would have to go to the Senate to ask for additional authority to go into some of the matters that the staff had uncovered so that no question of jurisdiction could be raised in the future. He stated that the Subcommittee had jurisdiction in some areas but in other areas it would be on the borderline. Still other areas, he stated would be beyond the jurisdiction of the Subcommittee entirely. He explained that Senator Ives had introduced a resolution asking that the Labor Committee be authorized to investigate racketeering in labor organizations. He, the Chairman, prior to knowing of Senator Ives' resolution, caused the staff to prepare an appropriate resolution for this Subcommittee, broadening our authority and asking for additional money. Senator McClellan stated that
172 Senator Ives had told him that he thought probably both Committees had jurisdiction but that since he had offered a resolution last year, felt that he should offer it again this year. Senator Ives said he hoped that something could be worked out. Senator McClellan said both resolutions were introduced in the Senate and the Vice President was holding them on his desk without referral. He said he did not know what would happen but discussed the possibilities of a fight on the Floor of the Senate. He explained that a suggestion had been made to try to work out

something in the nature of a special committee, or a joint committee, composed of members of the Senate Committee on Labor and Public Welfare, and this Subcommittee. There then followed a general discussion as to the formation of a new committee and the Chairman indicated that he would not be desirous of serving on any new committee unless he knew who the members would be and unless his present staff would handle the investigation. The members of the Subcommittee agreed that would be proper.

"The Chairman turned the committee over to Chief Counsel
173 Kennedy who proceeded to brief the members on the labor investigation. He explained how the labor investigation developed from the testimony in the military procurement program which had been handled by the Subcommittee. He said that inquiry had been conducted in the New York area with regard to paper locals."

And to interrupt: What is a paper local, Mr. Kennedy, to the understanding of you and the Committee at the time?

THE WITNESS: It is a local that appears just on paper; that there are offices but there are no members.

MR. HITZ: And reading without omission:

"He discussed the relationship of Nathan Shefferman, a labor counsellor in Chicago, with Frank Brewster, President of the Western Conference of Teamsters, and Dave Beck, International President of the Teamsters. He, generally, discussed the relationship between Shefferman and Beck and the many purchases made for Beck by Shefferman. He said the Subcommittee had a great deal of information that Brewster and Beck were using union funds for their personal benefit. He said that the story really
174 would be told in the bank accounts of the Western Conference of Teamsters, and other Teamster unions, but that these bank accounts which had been subpoenaed had not been shown to the Subcommittee because of the State Court action. He anticipated that the Subcommittee would not be able to get information from the union's own accounts because of the union officials invoking the Fourth Amendment.

"Also, in view of the anticipated contest of the Subcommittee's jurisdiction by witnesses to be called later in the week, Mr Kennedy discussed with the Committee the basis of its jurisdiction. First, since unions are tax exempt, then these men were misusing tax exempt monies and therefore, the Committee would be inqufring to determine whether the tax exemption was proper. Second, under the law, the Labor Department requires a financial statement from unions if they wish to obtain the use of the NLRB. However, the Labor Department presently feels that because of certain Court decisions, they are precluded from finding out even whether these reports are accurate or inaccurate

175 "Mr. Kennedy also pointed out that there appears to be an inadequacy in the law or in the administration of the law in that certain labor organizations such as the Western Conference of Teamsters do not file at all with the labor department.

"The Chairman said that he had a right to call an executive session to hear a witness and obtain documents as a preliminary inquiry and he felt that there should be an executive session for Wednesday and possibly public hearings later on.

"Whereupon, at 5:10 p. m. the Committee was adjourned."

Over the signature of Ruth Young Watt, Chief Clerk.

* * * * *

179 BY MR. HITZ:

Q. Now, Mr Kennedy, we have, I think, very well exhausted the conference of January 10, and let's move on to January 14th, the organization meeting.

Is that what that meeting was, an organizational meeting?

A. Yes, I believe it was.

* * * * *

180 THE COURT: It was an organization meeting of the full Committee which created the Subcommittee, wasn't it?

THE WITNESS: I think that is right.

* * * * *

MR. HITZ: It is the 14th, your Honor; Government's No. 5.

* * * * *

MR. HITZ: And on Page 2 of Government's No. 5 the following is stated:

"'Labor Racketeering Investigation

Senator McClellan informed the committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week, on the question of labor racketeering, and that a question of committee jurisdiction had arisen between this committee and the Committee of labor and Public Welfare. * * *'"

There is another sentence which doesn't relate to my immediate inquiry and I will not read that, Mr. Kennedy.

* * * * *

190 * * * * No, the minutes of January 14.

Now, on January 10, the Chairman clearly stated that there were those three fields.

THE COURT: Yes.

MR. HITZ: He also clearly stated that Senator Ives had never questioned Subcommittee Jurisdiction. But now we are moving four days beyond, and there is an interval in which the Chairman's statement of the 10th, it might be argued, didn't carry over.

I want to bring that view, if it is a view of the Subcommittee, up to date to the 14th.

THE COURT: Well, if Mr. Kennedy knows from talks with members of the Committee that there was the question, and that it was discussed, and possibly some conclusion reached, then I think he can testify to it.

If somebody told him that there was some kind of a question, then I don't think it is admissible.

MR. HITZ: I agree. I don't think so either.

THE COURT: Then ask him.

BY MR. HITZ:

Q. Mr. Kennedy, was there any question --

191 THE COURT: To your knowledge

BY MR. HITZ:

Q -- to your knowledge, in the Subcommittee or in the Committee on Government Operations, concerning lack of Subcommittee authority to go into the governmental aspect of labor racketeering, or was the question that you say you do have knowledge of raised as a matter concerning the policy of assigning the investigation to that Subcommittee or to the Labor Committee? A. When I discussed with members of the Committee the fact that this jurisdictional problem was going to be raised first by our witnesses from the West Coast, there was discussion about our jurisdiction

When I explained and when we had discussions about what aspects of it we were going into, there was never any question raised as far as going into that area and having hearings on that area.

During this period of time, there was also a question whether the Labor Committee would have jurisdiction or should continue the investigation, and have an investigation into this field of labor racketeering as I described it earlier, or whether our Committee, the Committee on Government Operations, the Subcommittee on Investigations of the Committee on Government Operations should go into this complete field: and it was on that basis that Senator Ives offered a resolution, and Senator McClellan

192 offered a resolution on the 7th of January, because he recognized there were some parts of it that we didn't have jurisdiction and there were some parts of it that we did. And I believe the same thing for Senator Ives

On the particular question of what we ultimately had hearings on, once it was explained and discussed, there wasn't any question raised about our right to go into that field.

* * * * *

Q Now, with respect to Mr. Winkle, of the Internal Revenue Bureau, you have stated, I think, that early in January, and before the hearings commenced on the 16th, you had a conference with him; and I am asking you now whether subsequently, did he have a conference that you know of with Senator McClellan? A. Yes

THE COURT: Who?

MR. HITZ: Mr. Winkle with Senator McClellan.

193 THE COURT: Yes.

BY MR. HITZ:

Q. Was that conference with Senator McClellan likewise before the beginning of the hearings on the 16th? A. Yes, it was.

Q. So that all three of these officials, one from the Labor Department, one from the NLRB, and one from Internal Revenue, were interviewed by you and then by the Chairman all prior to the commencement of the hearings; is that correct, sir? A. That is right.

Q. Thank you, Mr. Kennedy.

Now, have you got a copy of the print of the hearings, Mr. Kennedy? A. Yes.

Q. Which is Government No. 8.

I wonder if you would turn to Page 5, and about the middle of the page, Mr. Leedom makes a statement of about six or seven lines.

Do you find that? A. That is right.

Q. And immediately after, the Chairman. I have read up through what Mr. Leedom said. I wonder if you would commence reading with "The Chairman" immediately afterwards, and without omission.

194 THE COURT: "I have been a member of the National Labor Relations Board," and so forth?

MR. HITZ: No, beginning:

"The Chairman. In other words, the National Labor Relations Board. . ."

I read through Mr. Leedom's statement, which commences, "That is right."

THE WITNESS: This is on Page 5?

MR. HITZ: On Page 5, just below the middle.

THE COURT: Oh, yes.

MR. HITZ: Not the beginning of Mr. Leedom's testimony. I read that far.

THE WITNESS: "The Chairman. In other words, the National

Labor Relations Board acts solely upon a post-card certification issued by the Department of Labor, or by the Secreatary of Labor

"Mr. Leedom. That is right.

"The Chairman. The Board has no other information regarding that registration as to what it contains and what information it has revealed and whether it actually has complied with the law except just a statement from the Secretary to that effect?

"Mr. Leedom. That is right.

195 "The Chairman. Does the Board in any instance have authority to go behind that post-card certification as to the labor organization compliance?

"Mr. Leedom. It is our opinion that we have no authority to go back of the post card.

"The Chairman. So then your efficiency in that respect. or the efficiency of the Board in that respect, depends entirely upon that certification by that post card that the union has complied?

"Mr. Leedom. That is correct.

"The Chairman. And you have no knowledge about the detailed information that is submitted?

"Mr. Leedom. That is right.

"The Chairman. And you have no way of inquiring into it?

"Mr Leedom. That is right I might make this explanation which may not really be relevant, but in some cases where there may arise the question as to whether or not the information which the Secretary of Labor requires has actually been filed, sometimes

196 the question gets into one of our compliance cases. That is. the issue will arise in the case. that this union actually is not in compliance in that the Secretary of Labor required their financial data up to a period ending at a given date. The union will be contending that actually it did furnish the information as required up to that date, and so we have had cases where we have gone into that type of a question so that we could decide whether or not they really were in compliance. That is a rare thing.

"The Chairman. Let me ask you this: Do you make any check, or does the Board make any check on the information submitted for registration as to its truthfulness, its accuracy, or its sufficiency?

"Mr. Leedom. None at all.

"The Chairman. Does the Secretary of Labor make any such check so far as you know?

"Mr. Leedom. So far as I know, he does not, but I do not really know.

197 "The Chairman. Well, he can testify as to that. Then, if he does not make a check or have any authority to do so, it is simply a case of just accepting whatever the union wants to submit.

"Mr. Leedom. That is right.

"The Chairman. If a union or a labor organization seeking recognition, authority to bargain, and other benefits and privileges accorded under the Labor Act, files a false report or gives misinformation regarding its status at the time it applies, do you know now whether any check is made at all from any source of Government to ascertain whether the Secretary of Labor and the National Labor Relations Board are being imposed upon by such union?

"In other words, whether they are telling the truth?

"Mr. Leedom. According to my best information and belief, there is no check whatever made as to the accuracy by any governmental representative, and I have no way of knowing as to whether or not false affidavits or statements of financial activity are

198 being filed.

"The Chairman. Now, the unions are required, or the labor organizations are required, under the law, I believe, to file annual reports of their finances.

"Mr. Leedom. That is right.

"The Chairman. And they are also required to distribute that information among their membership. The law requires them

to file a statement before your Board showing that they have disseminated that information or distributed that report to their members and how they distributed it. Is that correct?

"Mr. Leedom. That is correct.

"The Chairman. In that report that is filed and that is distributed to the membership, is there any check made on that by the National Labor Relations Board to ascertain its accuracy and the truthfulness of it?

"Mr. Leedom. I think I am correct in saying that there never is a check made of the accuracy of the report filed. As to the distribution of the report among the members of the union,
199 when the issue is raised as to whether or not it actually was distributed, the Board inquires into that and requires proof that there was a substantial compliance with the requirement of the statute that it be distributed.

"The Chairman. But you do undertake, and you have that authority, the Board has, as you interpret this law and as the Board functions, to determine that they have made the distribution?

"Mr Leedom. That is right, because of the peculiar wording of the statute.

"The Chairman. But there is nothing in the statute that gives the Board the authority and the Board does not now in practice undertake to verify the truthfulness of the financial statement required to be distributed.

"Mr. Leedom. That is right. We think now, particularly since the Supreme Court has just recently ruled in the two so-called Communist cases, that it is clearly established that we have no right to go back of the showing of the filing of the financial
200 reports.

"The Chairman. In other words, if a labor organization or union makes application for and seeks registration and files a financial statement that may be false, inaccurate and misleading,

the Board, as I understand you, if the Secretary of Labor certifies by post card that it has complied, is powerless to go beyond that certification to satisfy itself that the labor union is eligible and has complied with the law.

"Mr. Leedom. That is my opinion and that opinion is based on the considered judgment of other legal authorities with the Labor Board.

"The Chairman. You spoke of recent court decisions. Would that apply, also, in your judgment, to the Secretary of Labor, that he has no authority to go back of it and beyond it?

"Mr. Leedom. That would be my opinion, with respect to the Secretary of Labor, too.

201 "The Chairman. Then, the Government has very little protection if one desires to perpetrate a fraud in this area?

"Mr. Leedom. That is right. At least these provisions of the National Labor Relations Act afford very little protection. The statute does contain a special reference to fraudulent allegations and the reference of those to the Department of Justice, so that there would be that.

"The Chairman. How are you ever going to determine that they are faulty if you cannot inquire into them.

"Mr. Leedom. That is right. Our administration of the act is not such that it would tend to uncover fraudulent representations, and how they would come to light is more than I know.

"The Chairman. If, under the ruling of the Supreme Court recently, their statement cannot be challenged, your Board and the Secretary of Labor are compelled to accept and act upon them without challenge. Then, is there in your opinion sufficient protection for the Government's interest?

202 "Mr. Leedom. That gets me to an area where I would have to decide exactly what burden or o ligation Congress meant to impose upon the Labor Board or what objective they intended to reach by putting these particular provisions, 9 (f) and 9 (g), into

the act. It gets a little involved, but the Supreme Court has held that all Congress intended with respect to the non-Communist affidavit as they related it to the National Labor Relations Act was to require the officers to make the affidavit and that Congress so the Supreme Court said as I understand the opinion, could not have intended to burden the Labor Board with the duty of ferreting into each affidavit for the reason that they would not get any cases decided.

"Now, if that was the intent of Congress with respect to 9 (h) maybe it was not the intent of Congress with respect to 9 (f) and (g) to require the Labor Board to delve into the accuracy of the reports and to achieve only such good results as you would achieve by depending upon the honesty of the people who make the affidavit.

203 "I can see that the way is open under the act, the way it is now written, and the way it is now interpreted and administered by us, for frauds to be perpetrated without this act providing any very adequate remedy.

"Now, if that is a bad situation in the eyes of Congress, then I think Congress ought to change the law.

"The Chairman. Let me ask you another question: Are labor organizations required in this annual report to file a statement of the compensation and allowances made to their officers over and above $5,000 per annum?

"Mr. Leedom. That is right; yes.

"The Chairman. Does the Board now have any authority or in the course of administering the law does the Board make any check with respect to the accuracy of that report as to the amount of compensation and allowances paid officers?

"Mr. Leedom. No, we do not, and we think we haven't the authority.

"The Chiarman. You do not, and you think you do not have the authority?

204 "Mr. Leedom. To do so, yes.

"The Chairman. Do you know whether the Secretary of Labor makes any such check or has the authority to go beyond or behind the report filed and inquire into its veracity?

"Mr. Leedom. According to my belief, he does not. I have no actual knowledge about that.

"The Chairman. You have no actual knowledge that it is done by any agency of the Government?

"Mr. Leedom. That is right.

"The Chairman. Does that afford opportunity for imposition of fraud upon the Government? I am not saying or I am not arguing that you do have the authority, but to leave it in that situation?

"Mr. Leedom. At least that permits unions and labor organizations to circumvent what may have been the intent of Congress and that is to make the use of the Labor Board available only to those who file honest reports.

"The Chairman. Now, I would think that was the intent of
205 Congress, at least, to require honesty of any citizen or business having a business with the Government.

"Mr. Leedom. It would seem so, but I have to refer back to the Supreme Court in their non-Communist cases. In those cases the Board took the position that if an officer of a union files a false affidavit and announces practically that he had filed a false affidavit to meet the requirements of the law, we thought that if everybody else knew it was false we had a right to take notice of the falsity of it and to disregard it. The Supreme Court said otherwise.

"The Chairman. In other words, under the recent court decision, a Communist officer or president of a labor organization can file a perjured oath that he is not a Communist, and a month later the Supreme Court can adjudicate him to be a Communist, but your Board and the Department of Labor is powerless to revoke any privileges that have been granted to the union or to the officer by reason of that false affidavit?

"Mr. Leedom. That is correct.

206 "The Chairman. Now, do you say in view of that decision, you think that you are confronted with the same situation with respect to false financial reports?

"Mr. Leedom. I think that we are.

"The Chairman. Now, do you have information that some unions have filed false financial reports with respect particularly to the compensation and allowances of their officers?

"Mr. Leedom. I am not aware of any knowledge of that at all, either officially or unofficially. I never have inquired into that. We don't, as I have said, do it officially and I don't recall ever having anybody tell me.

"The Chairman In other words, you have considered it none of your business under the law as it is today?

Could I interrupt?

I have broken my glasses I can read a little bit, but I can't --

THE COURT: Mr. Hitz, I don't know that the witness has to read this. I don't know that the witness has to read this in evidence

MR. HITZ. No. It looks like I will have to read it.

207 THE COURT: It looks like you will.

MR. HITZ: "Mr Leedom That is right."

* * * * *

208 MR. HITZ: We could either submit Mr. Kennedy for cross examination on his testimony, or we could excuse him until all of it has been read, and my side of this matter is completed.

THE COURT: But for this reading, do you have anything else now you want to ask him; or don't you know?

* * * * *

209 MR. HITZ: I have some questions that would relate possibly to the pertinency of the questions asked or the demands made upon Mr LaPoma, and I think I can ask those now of Mr. Kennedy, and excuse him

* * * * *

BY MR. HITZ:

Q. Mr. Kennedy, the subpoena duces tecum served upon Mr. LaPoma called for the records, generally speaking and broadly speaking, of Local 174 from January 1, '51 to December 31, '55, a period of four years.

I wonder if you could tell us for how much of that four-year period your Subcommittee had information that there may have been falsifications of the books and records and possible misuse of funds?

* * * * *

210 THE WITNESS: We had the information that there was a misuse of union funds, that many of the personal bills of Mr. Frank Brewster and Mr. Dave Beck had been paid out of the unions in the Seattle area; and again we came down to that there was a Western Conference of Teamsters, Joint Council 28 and Local 174, which is the biggest --

THE COURT: Did you have any reason to believe that the information you thought you might get would reach as far back as four years?

THE WITNESS: Yes, sir. Yes, Your Honor.

THE COURT: Why did you think so? Why did you think it might go back that far?

THE WITNESS: Based on the information that we had regarding Mr. Shefferman, regarding the automobile, regarding the horse van,

211 regarding the horses. We understood all these personal expenses had been financed out of these union funds.

THE COURT: Over a period of several years back?

THE WITNESS: That is right. And that these statements, therefore, that were filed with the Labor Department would not reflect these things, and would be inaccurate, and what was the Government going to do about it.

THE COURT: If I understand you correctly, you were not concerned so much with isolated instances of misuse of funds, but with a continuing practice?

THE WITNESS: Right. And we had enough specific and basic information, Your Honor, to lead us to believe that if we went into these records and were able to examine the records for this pertinent period

of time, that this would develop a pattern, and that these expenditures -- which we found later to be true -- would not be reflected in the reports that were filed with the Labor Department as part of the compensation or allowances that these individuals or these officers received from these unions.

BY MR. HITZ:

Q. Mr. Kennedy, you have told us that part of the reason for your subpoenaing Mr. LaPoma and the information that the Committee through you had concerning Mr. LaPoma was supplemented by the statement of facts of the Ninth Circuit Court of Appeals opinion.

212 Are you aware now, as you testify, as to how many years back the statement of facts there concerning possible misuse of funds went?

A. Well, I thought -- the best of my recollection, it went back to '50 or '51

Q. Now, I would like to show you this opinion, and ask you a further question as to that.

I wonder if you would glance on Page 2, about twelve lines from the bottom, and answer the question.

Is your recollection refreshed as to the facts stated in that opinion?

A. Yes

Q. With reference to going back to the year 1943? A. Yes

Q. Thank you.

THE COURT: Forty-three?

MR. HITZ: Yes, Your Honor.

BY MR. HITZ:

Q Now, Mr. Kennedy, Count 2 here relates to this question which it is alleged Mr. LaPoma refused to answer:

"Do you have any intention now of producing these records under this subpoena?

What was the interest of the Subcommittee so far as you were aware of whether or not Mr LaPoma had any intention now of producing

213 the subpoenaed papers?

THE COURT. Read that to me, please.

MR HITZ: The question was, that formed the Count

"Do you have any intention now of producing these records under this subpoena?"

I am asking Mr. Kennedy what was the Subcommittee's interest in asking that question, so far as he was aware.

THE COURT: You may answer that.

MR. PICKENS: First I would like to know if he is aware. Has he testified that he is?

THE COURT: Do you know?

THE WITNESS: Yes.

THE COURT: All right, answer.

BY MR. HITZ:

Q. Will you tell us what the interest was? A. To get at these records and books to make an examination to determine wnether the information and study was accurate and that --

THE COURT: The question, Mr. Kennedy, asked of Mr. LaPoma, as quoted by Mr. Hitz was: Do you have any intention of giving them to us?

THE WITNESS: Whether he was going to cooperate with the Committee by turning them over.

THE COURT: The question, it seems to me, speaks for itself.

214 They anticipated he wasn't going to, obviously, or they wouldn't have asked him that question.

MR. HITZ: It would seem so.

THE COURT: Was that the second day, by the way?

MR. HITZ: All of the counts are taken from the second day, because on the first day, he was given a short reprieve to reconsider.

THE COURT: On the first day, he plainly told them, through Mr. Bassett and himself, I think, that he didn't intend to.

MR. HITZ: That is right.

THE COURT: So they gave him what you called a reprieve. They gave him overnight to think it over and discuss it with his counsel;and he came back the next day; and the Chairman said: Do you intend to give it to us or don't you?

MR. HITZ: Gave him three days, as a matter of fact.

* * * * *

215 Q. Mr. Kennedy, I would like to ask you in what fashion the Chairman delivered the opening statement at the commencement of these hearings on the 16th, as contained on Pages 1 through 3 of the print.

216 Government No. 8?

More specifically, did he recite that from memory, or did he read it from something? A. He read it.

THE COURT: To whom? In public session?

THE WITNESS: No; in Executive Session.

THE COURT: He read that to the members of the Committee?

THE WITNESS: Yes.

THE COURT: Was Mr. LaPoma there?

THE WITNESS: Not at that time.

THE COURT: Right.

Now the question is whether Mr McClellan or any of the other Senators, or you, or anybody later in public session, while Mr. LaPoma and his lawyer were present, read that same opening statement, statement of purposes of the Committee, or gave a copy of it to either Mr. LaPoma or Mr. Bassett, his lawyer, or both?

THE WITNESS: Do you want me to answer that?

THE COURT: Yes, I do

THE WITNESS: The morning prior to the Executive Session, and I believe it was about nine-thirty in the morning, my best recollection is that I gave it to Mr. Bassett out in the hall outside my room.

THE COURT: Gave what?

217 THE WITNESS: Gave two copies of the statement.

THE COURT: That Mr. McClellan made?

THE WITNESS: Yes, that Senator McClellan made.

THE COURT: On Pages 1 through 4 of the hearings?

THE WITNESS: Right.

THE COURT: As reflected in Government's Exhibit No. 8.

THE WITNESS: That is correct. And then when Mr. Brewster

appeared before the Committee in Executive Session, and when Mr. LaPoma appeared in Executive Session, Senator McClellan asked them if they had received the statement.

THE COURT: That was in Executive Session?

THE WITNESS: Yes, whether they had received the statement; and it was acknowledged at that time that the statement had been received by them, although they didn't say it was from me. They said they had the statement.

So he felt it wasn't necessary --

THE COURT: Who said they had received it?

THE WITNESS: It is in this thing (indicating Government's Exhibit No. 8.)

THE COURT: Go ahead.

THE WITNESS: Do you know where Mr. Brewster starts?

THE COURT: No; I am concerned with Mr. LaPoma.

MR. HITZ: We can work that out with Mr. LaPoma here. About
218 Page 50.

THE COURT: Page what?

MR. HITZ: Page 50 of No. 8.

MR. PICKENS: Actually, it is Page 48.

MR. HITZ: 48.

THE WITNESS: The Chairman says:

"May I ask you if you were supplied this morning with a mimeographed copy..."

MR. HITZ: Wait a minute. Let's note for the record it is on Page 48.

THE COURT: Go ahead.

THE WITNESS: "May I ask you if you were supplied this morning with a mineographed copy of the statement the Chair made at the opening of this series of hearings in which the Chair pointed out the purposes of these hearings and the subject matters that were under the committee's investigation?

"Mr. LaPoma: I read such a copy.

"The Chairman. You read such a copy and, therefore, you understand what the committee's interest is, and the purposes of the investigation?

"Mr. LaPoma. Yes."

THE COURT: And then he goes on to say:

219 "You say you received the subpoena. . ."

--which is set out in the same exhibit, as I recall, or, anyway, we have it here --

". . . and you are present in response thereto. Have you brought the books, records, documents, and other material called for in the subpoena, to present to the committee?"

Mr. LaPoma says:

"I have a statement, Mr. --"

The Chairman says:

"I understand you have a statement. Have you brought them?"

Meaning the books and records.

And he says:

"No; I have not."

That is the answer to my question.

THE WITNESS: Your Honor, could I also point out Page 51?

THE COURT: Yes.

THE WITNESS: As far as Mr. LaPoma's attorney is concerned, who was present.

THE COURT: Yes.

THE WITNESS: Question of Senator Jackson in the middle of the page.

THE COURT: Yes.

220 THE WITNESS: "Senator Jackson. Mr. Bassett, have you had an opportunity to read the statement the chairman of the committee made this morning at the outset of the hearings?

"Mr. Bassett. Yes, sir; I read that.

"Senator Jackson. Did you note that he made reference to the provisions in the Taft-Hartley Act requiring the filing of

financial statements, and that the committee was proceeding to look into the question of whether or not there was a need for legislation?

"Mr. Bassett. I noticed that; yes, sir."

* * * * *

221 CROSS EXAMINATION

BY MR. PICKENS:

Q. Isn't it true, Mr Kennedy, that Clark Mollenhoff gave you the idea of investigating the Teamsters?

THE COURT. Who?

MR. PICKENS. Clark Mollenhoff.

THE COURT. Who is he?

MR. PICKENS. A newspaperman.

THE COURT. Gave him the idea of what?

MR. PICKENS. Of investigating the Teamsters Union on the West Coast

THE WITNESS. I would think that he was responsible for suggesting that we might expand it to the West Coast and do what we had done in April and May in 1956 up in New York City.

BY MR. PICKENS:

Q. Do you recall about when he gave you this suggestion? A. I believe in the summer of 1956. It was after we had held the hearings on the group up in New York City

Q. Would you say it was around August 1, 1956? A. I would think it was, yes, sir

Q. Have you read his recent article in Look Magazine by Mr Mollenhoff, in which he discusses this? A. Yes, I have.

222 Q. I believe he fixes the date as August 1 when he first talked to you

THE COURT. Mr Kennedy says he thinks that is about right.

BY MR. PICKENS

Q. Will you tell me what the substance of your discussion with Mr Mollenhoff at that time was? A. I would have to go back into 1955

and into 1956

Q. No, I want you to tell me -- A. Just that one?

Q. Just that one time.

THE COURT: You mean the first time that -- what is his name?

MR. PICKENS: Mollenhoff, M-o-l-l-e-n-h-o-f-f-.

THE COURT: Yes.

You mean the first time on or about August 1 that he talked to Mr. Kennedy, you want to know what then was the discussion?

MR. PICKENS: That is correct.

THE COURT: That you had.

THE WITNESS: On that particular occasion, we discussed the fact that we had gone into this situation up in New York City.

223 At this time, we hadn't gone beyond the Executive Sessions that we had held, because of the fact that about this period of time the acid had been thrown in Victor Riesel's eyes, and the District Attorney Hogan --

Q. I want to know what you discussed. A. This is what we discussed We discussed all this -- had asked us not to proceed with our investigation while he was conducting his

THE COURT: You mean, publicly?

THE WITNESS: Publicly. And we agreed at that time not to do so, although we had these ten or twelve witnesses down in Executive Session

By this time, August 1, or around that date, Mr Johnny Dio had been arrested

Q. Did you discuss this with Mr Mollenhoff? A. Yes Well --

Q. All I want is your discussion with him on or about August 1

A. I am sure we got into this conversation.

Q When you talked to him when you talked about the West Coast situation in the Teamsters. A. And at that time, we were planning to expand or go back into this investigation; and we had two investigators back up in New York City.

He said You should expand it into the Midwest and into the Far

224 West He said: You will find the same type of situations that you

are finding up in New York City.

Q. Did you and Mr. Mollenhoff discuss the question of whether or not you thought the Committee had jurisdiction? A. Yes, I think we did.

Q. What was the nature of that? A. Well, I think he said, number one, as I remember the conversation, it was a question, as we were Government Operations, whether we had jurisdiction. That would interfere with interstate and foreign commerce; that the Teamsters Union were most prominent in interstate and foreign commerce and, therefore, we would have jurisdiction on that.

There was a question whether that was so broad that probably it would be a question of that.

We discussed the financial statements that have to be filed with the Labor Department.

We discussed the fact that labor unions are tax exempt; and that under our jurisdiction, we would certainly have jurisdiction in those fields.

Q. Wasn't the discussion along the lines that these forms that were filed with the Labor Department would be a good source of primary information? A. I think that that was true also. As it turned out, they

225 were not.

Q. Didn't you give Mr. Mollenhoff the opinion at that time that you did not think that your Committee had jurisdiction over these matters? A. I questioned it.

Q. Did you not tell him at that time that you thought the Labor Committee had the jurisdiction in these matters? A. I don't think we discussed that. I don't remember discussing that, Mr. Pickens.

Q. Now, any investigations that you had made prior to this time were not in the labor field, however; were they? I mean, during the period that you were with the Subcommittee of the full Committee. A. I would think -- no, we had.

Q. Well, what investigations were they? A. I think I went into all that.

The fact that there were these non-union shops got us into labor unions.

Q. Your investigation was really into the fraud in the procurement of military uniforms; was it not? A. Yes; but there was a question of whether the Government was being defrauded by the arrangement with these labor union leaders.

Q. Whether they were paying too much for their uniforms?

226 A. No, no. It would be a question of whether they were being defrauded in the purchase of the uniforms.

Q. Well, in what manner? A. Well, I will go through this again.

The fact that the group up in New York City were buying uniforms from the Government, the Cravitzes and the Abrams --

THE COURT: Buying them from the Government?

THE WITNESS: Excuse me:

-- selling them to the Government. The Government was buying them from this group.

They were operating in New York; they had some plants in New York City. They had stipulated on their contracts that these uniforms would be made in these particular plants.

That during this same period of time, or during this couple of several years' time, they had purchased and sold some seven million dollars of bonds in fictitious names. That we inquired into this.

We had received some information that they had passed some of these bonds out to Government inspectors.

And when we received the story that what the bonds were used for was that these Cravitzes and the Abrams had made arrangements with certain of these labor union officials who actually operated non-union shops themselves across in New Jersey and in Pennsylvania, to manufacture these uniforms in the non-union shops.

227 That these labor racketeers would pay their employees in cash; that the Cravitzes and the Abrams would pay the racketeers by means of these bonds.

So we got into their affairs, these so-called labor racketeers, and people who ran unions in New York City or were involved in unions in New York City.

We had ten or twelve of them down, because it got not only into them, but it got into the question of how they were able to truck and ship the uniforms, the raw material out of the plants in New York City over into non-union shops in New Jersey and Pennsylvania, and what had to be paid to these people.

BY MR. PICKENS:

Q. Let me ask you this question:

Weren't you investigating fraud in the procurement of uniforms by the Federal Government from the Cravitzes and the Abrams? A. That is right

Q. That wasn't a labor investigation; was it? A. I didn't say -- you asked me whether we got into labor unions.

We got into labor unions, although you have expressed precisely what we were investigating.

* * * * *

229 Q. I believe you testified, Mr Kennedy, that in connection with these New York hearings you ran into this fraud in military procurement when you called -- was it Sam Berger of the IL- -- A. -GWU.

Q. ILGWU? A. Yes.

Q. Has he ever testified in open session? A. He hasn't yet. He is under subpoena to testify this coming week.

Q. He didn't testify during this series of hearings at which Mr. LaPoma -- A No. he did not

230 Q. -- was called? And he has never testified in open session before the Government Operations Committee? A. No, he did not.

Q. And ILGWU, that is familiarly known as the Lady Garment Workers Union, is it not? A. That is right.

Q And it has no connection with the Teamsters Union whatsoever? A It does not.

Q Has any official of any garment workers union testified or did any official of any garment workers union testify in open session during this series of hearings -- A. No.

Q -- at which Mr. LaPoma testified? A. No.

Q. Were you investigating fraud in military procurement in connection with your investigations and hearings -- I am speaking always about the Government Operations Committee unless I mention the Select Committee -- in connection with the Western Conference of Teamsters and Local 174? A. No.

Q. And Mr. LaPoma? A. No.

Q. In connection with your investigation on the West Coast of the Western Conference of Teamsters and Local 174 you were actually in-
231 vestigating the tie-up or alleged tie-up between the West Coast Teamsters and vice and corruption in Portland, Oregon, were you not? A. No. That was one of the things we were investigating.

Q. That was one of the things you were investigating? A. Yes.

Q. And the tie-up, the purported attempt to control law enforcement in the State of Oregon? A. We looked into that.

Q. You looked into that. And you also looked into the alleged attempt to control, I believe, the pinball operation of pinball machines on the West Coast or in some of those states? A. In some of those areas Not in the whole West Coast.

THE COURT: Now, may I ask you, Mr. Pickens, a question? Your questions thus far have not been objected to. I do not know, and I think perhaps I ought to know, where it is leading us. And before you answer my question, which is where does it lead us, let me say this: That it seems to me no concern of this Court as to how many and how many varied investigations this Committee made with or without the scope of its jurisdiction.

I am concerned only, it seems to me, with whether their in-
terrogation or attempted interrogation and the subpoena for Mr. LaPoma
232 was within their jurisdiction.

Now they could have investigated, so far as I can see, the Apache or Sioux Indians in the early days of the frontier and it wouldn't have a thing in the world to do with whether they had any right to investigate and inquire concerning Mr. LaPoma.

Now, where are we going?

MR. PICKENS: All right, your Honor. If I may speak to that point, because I know it will come up sooner or later --

THE COURT: I am trying to keep this case on the reservation, so to speak.

MR. PICKENS: The questions that I have been asking Mr. Kennedy and the questions that I propose to ask him go to the question under inquiry.

And in that connection, the Supreme Court in the Watkins case, in trying to determine what the question under inquiry was in the Watkins case, had this to say, if I may quote a paragraph or two, your Honor. I am reading from Page 1519 of 25 Law Weekly.

The Supreme Court says as follows:

The Government believes that the topic of inquiry before the Subcommittee concerned Communist infiltration in labor. In his introductory remarks the Chairman made reference to a bill then pending
233 before the Committee which would have penalized labor unions controlled or dominated by persons who were or had been members of a Communist-action organization as defined in the Internal Security Act of 1950.

The Subcommittee, it has been contended, might have been endeavoring to determine the extent of such a problem. This view is corroborated somewhat by the witnesses who preceded and followed petitioner before the Subcommittee. Looking at the entire hearings, however, there is strong reason to doubt that the subject revolved about labor matters. The published transcript is entitled "Investigation of Communist Activities in the Chicago Area" and six of the nine witnesses had no connection with labor at all.

There is just one more paragraph here.

The most serious doubts as to the Subcommittee's question under inquiry, however, stem from the precise questions that petitioner has been charged with refusing to answer.

THE COURT. And that gets me right to the point I make.

234 MR. PICKENS. All right. Now, if I may continue just to finish

this paragraph

THE COURT: You may.

MR. PICKENS: (continuing:)

Under the terms of the statute afterall it is these which must be proved pertinent. Petitioner is charged with refusing to tell a subcommittee whether or not he knew that certain persons, named persons had been members in the Communist Party in the past. The Subcommittee counsel read the list from the testimony of a previous witness who identified them as Communists. Although this former witness was identified with labor, he had not stated that the persons he named were involved in labor unions Of the thirty names propounded to petitioner seven were completely unconnected with organized labor. One operated a beauty parlor; another, a watchmaker. Several were identified as just citizens or only Communists.

THE COURT: Mr. Pickens, I am afraid I will have to stop you. I think I am probably as familiar with the Watkins case as you are. I have read it What you are reading to me does not answer my question at all.

235 Now, again I say I may be wasting time by asking you where you want to take me, but in the hope that I am not I will ask it again And I repeat myself.

I do not care what this Committee investigated other than what we are here concerned with Now, tell me as concisely as you can why an investigation, with or without the jurisdiction of this Committee, of pinball operations, I think you said, in Portland would have anything in the world to do with this.

MR. PICKENS: Well, it is this, your Honor.

THE COURT: Don't lead me down some alley so that I won't be able to find my way back to a lighted street Let's stay on the ball here.

MR. PICKENS: All right

THE COURT: How is that going to help me, pinball machines in Portland, Oregon, with which Mr LaPoma, so far as we certainly now know, had nothing whatever to do.

MR. PICKENS: The statement of the Chairman in his statement in some of these hearings said that this Committee was investigating labor racketeering. Mr. Kennedy has testified about certain investigations in Los Angeles, Seattle, and Portland.

THE COURT: Right and limited, and limited in his testimony by the District Attorney and the Court.

MR. PICKENS: Well, now, he has testified concerning the
236 purpose of the investigation, was for the purpose of ascertaining whether or not these forms were filled out properly.

THE COURT: Right.

MR. PICKENS: And we say that we are entitled to show that that was not their sole purpose; that they were going into the field of labor racketeering.

THE COURT: So if it wasn't the sole purpose and they had some extra legitimate purposes or illegitimate purposes, so what, if they were right in this inquiry?

Now, do you want Mr. Kennedy to tell me that Mr. LaPoma didn't have anything to do with pinball machines in Portland or Seattle, rather?

MR. PICKENS: No, I am not going to ask him that question, but I think I am entitled --

THE COURT: Well, I mean, where are you going?

MR. PICKENS: Well, I am going to ask him about his investigation in Portland, but I am going to be very brief about it and about his investigation in Seattle, because he has testified concerning it, and --

THE COURT: I am not going to permit you to ask Mr. Kennedy about his investigations, again, of pinball machines and that sort of thing.

MR. PICKENS: All right.

THE COURT: I just am not going to clutter up this record with it
237 and waste the time that it will take to do it because it is not relevant or material to this case, and I am sure of that.

MR. PICKENS: All right. May I read from one paragraph from a statement of the Chairman of the Committee --

THE COURT: Yes.

MR. PICKENS: -- to show you the connection that I am making or attempting to make?

THE COURT: All right.

MR. PICKENS: Now, this is in Government's Exhibit No. 8. It is on Page 195. And the Chairman starts out in the middle of the page and he says -- this is on Saturday, January 19th. This is the morning of the day before Mr. LaPoma testified.

He says:

"The Chair wishes to announce as we resume public hearings that in the interim since yesterday at noon when we recessed the committee has heard a number of witnesses in executive session, witnesses who gave testimony of importance quite peritinent to the subject matter under inquiry and testimony that indicates conditions prevail that are of interest to the Congress in its investigation of Government operations with respect to its
238 efficiency and economy."

Now, my only questions to Mr Kennedy are going to be a few simple questions that revolve around those individuals that the Chairman says gave testimony --

THE COURT: That is precisely what I will not receive. How possibly can this Court be concerned with, maybe, a fishing expedition by Senator McClellan and the Committee or by Mr. Kennedy, here, for all I know, into all kinds of fields which haven't anything to do with this case?

I am not going to sit here and listen to that.

MR. PICKENS: Well, it is pertinent to the subject matter under inquiry.

THE COURT: Well, tell me why it is. You haven't told me yet or at least you haven't satisfied me.

MR. PICKENS: Well, it is our theory of the case that this Committee --

THE COURT That they went off on a rampage?

MR PICKENS That they were investigating labor racketeering,

that after the 15th or 19th of December when they found out that their jurisdiction was going to be questioned, then and after the 1st of January is the first time that they started running around, trying to find out about these tax and labor forms.

And the testimony that is going to be stipulated to, by Secretary Mitchell, by the Chairman of the National Labor Relations Board and by
239 the Assistant Commissioner of Internal Revenue, we feel, will bear out our contention along those lines

THE COURT: In that it was incidental. Right?

MR. PICKENS: That it was a ruse; not incidental; that it was a ruse.

THE COURT: Suppose it was a ruse and still legitimate?

MR. PICKENS: No, I --

THE COURT: Suppose the purpose was wrong but the net result was legitimate; what of it?

MR. PICKENS: Well, I think the Watkins case and these other cases say that when the chairman says that that was very pertinent to the question under inquiry, it seems to me that we are entitled to show at least what the chairman said was the question under inquiry.

THE COURT: Well; Mr. Hitz may agree with you because he hasn't objected. I am the one who is doing the objecting and I sustain my objection.

I will not permit this inquiry.

MR. PICKENS: Well, I will --

THE COURT: At least so far as it has gone now I won't.

MR. PICKENS: Well, let me ask your Honor this, and I don't wish to take up the time of the Court. I know offers of proof are not
240 proper on cross-examination. So after I get to my part of the case may I recall Mr. Kennedy or may I make an offer of proof?

THE COURT. Yes

MR PICKENS. Without Mr Kennedy's presence or would your Honor require him to be here?

THE COURT. As you like I am not putting future restrictions

on you. I am ruling on evidence as you seek it and as it appears before me at the time. And let's be as precise as we can about it because I don't know myself what you are really trying to get out.

But I will not permit Mr. Kennedy to tell me what other kinds of investigation he and his staff made which do not have relevancy and materiality in my view, right or wrong as that may be, but I am the trial Judge. So you will have to settle for that. Or at least, which do not have materiality or relevancy to the issue that is before me, which I think is a rather simple one. It may not be simple in its solution. It is simple in its posture.

MR. PICKENS: Well, your Honor understands my position; that is, that this is one ball of wax. Now, if there were three or four different separate investigations then my position would be different

My position is that it is one ball of wax and you can't separate what they say the purpose was from what the actual purpose was.

241 THE COURT: I think you can. Now, this Committee may have felt that its scope was almost unlimited; that it could investigate the plight of sharecroppers in the South. It may have thought that it could investigate the plight of furtrappers in Alaska and so on ad infinitum.

Now, how much of that kind of thing, and I am not, of course, suggesting it -- I am using the extreme only to illustrate my point -- but how much of that kind of thing am I supposed to listen to? I think none.

Mr. Kennedy, and in the record here before me in evidence, has testified about what the Committee thought its scope was with respect to this defendant and the union which he represented, and he tells us how he got on to that, what the genesis of it was, and how it reached from New York and New Jersey and, I think maybe, Pennsylvania, but anyway from that localized area over all the way across the country.

But they still, according to the witness, were continuing on pretty much a main track and they hadn't gotten off the train and on a mule and started to go through a forest trying to find some other trail.

MR. PICKENS: Well, that is why I think I can show your Honor that they have

THE COURT: Well, yes, I know that is what you want to show me and that is exactly what I don't think you can show me because I don't care
242 whether the Committee investigated, without any authority probably under the sun, the massacre of Custer and his men at Little Big Horn. Why should I be bothered with that?

Really, I may be over-simplifying it, but the issue to me is awfully simple. I repeat that the solution may not be at all, but the issue is.

So I think I will have to stop you.

MR. PICKENS: Well, --

THE COURT: I mean, on that angle.

MR. PICKENS: I don't mean to belabor this with your Honor, --

THE COURT: Well, you have a right to be heard. I can be wrong and you can be right. I don't know.

MR. PICKENS: He has testified about these investigations they made in Los Angeles and Seattle and Portland, and it seems to me that it is proper cross-examination for me to ask him questions on those investigations.

THE COURT: Well, within limits, surely. Within a reasonable limit you may, indeed.

MR. PICKENS: Well, I will start out --

THE COURT: But I don't want to hear any more about pinball machines unless you want to put Mr. LaPoma in the pinball business, which I doubt.

MR. PICKENS: Well, I will ask one or two questions on another
243 subject and then go into the other, and it is not because I am trying to get around your Honor's ruling, but when you think I am wrong --

THE COURT: I know. You try your case in your own way and if you and I disagree I guess I am the one who is going to have to win.

BY MR. PICKENS:

Q. Now, in connection with the investigation in New York and New Jersey you didn't receive any direct leads or there was no testimony in those investigations concerning the Western Conference or Local 174, was there? A. No, there was not.

Q. Or Nugent LaPoma or Frank Brewster? A. No, there was not.

Q. So that you received no direct leads from that investigation which took you to the investigation of the Teamsters on the West Coast?

A. No. They were all independent leads.

Q. All independent. You testified on direct that logically -- the New York investigation logically took you into the investigation in Los Angeles and Seattle and Portland.

Isn't what you mean that that gave you an idea that there might be something wrong with some of the other unions in some other section of the country?

244 THE COURT: He said so. He said in his discussion with -- well, this is cross-examination.

BY MR. PICKENS:

Q. What did you mean by "logical"?

THE COURT: Answer that.

THE WITNESS: That when we got into this situation in New York we wanted to explore other sections of the country to see if there was a like type situation or whether there was anything that we thought was well worth looking into.

BY MR PICKENS:

Q. At that point in New York you hadn't investigated into any Teamster local as yet, had you? A. Yes.

Q. Had you? A. Yes.

Q. Which local? A. Now, what time are you talking about?

Q. Well, I am talking about the time that you were investigating fraud in procurement; prior to the time that you had the Dios and others in executive session. A. Well, some of these people were in Teamster unions or involved on -- their associates were in Teamster unions such as Johnny Dio.

Q. You mean, -- but the people themselves were not members of

245 the Teamsters Union? A. Well, now, I would have to go over the list of the witnesses. There are only three that I can think of. With the Dios I can think only of four.

I know that all Dio's people had come into the Teamsters Union in

December of 1955; that is, people that he had set up in the labor organizations in New York, starting in 1950. They had all become Teamsters officials in December of 1955 and seven in five different locals.

So that from that point of view we knew that there was that connection with the Teamsters and I don't -- the other eight or nine witnesses, Mr. Pickens, I don't know whether they had any direct connection with the Teamsters or not.

Q. Now, I believe that you started this investigation in Los Angeles sometime around the 10th of November of 1956? A. I think so.

Q. Had there been an authorization for this investigation in Los Angeles by the Subcommittee? A. Under the rules the Chairman can start a preliminary investigation, and that is what this was.

Q. And --

THE COURT: And he did so?

THE WITNESS: Yes, he was out there at the time and authorized it

246 BY MR. PICKENS:

Q. Was he out there in connection with other matters? A. Yes

Q What was that? Was that the Chotiner hearing? A. We had some hearings on Mr. Murray Chotiner.

Q. And when you were in Los Angeles you talked to the chief of police and the head of the labor squad there, I believe? A. Yes.

Q. And you talked to him about the Teamsters in connection with labor racketeering, in connection with the collection of the garbage in the City of Los Angeles -- A. Three or four different unions.

Q But you did talk to him about the Teamsters? A. Yes, sir.

Q. And then you went from there to Portland, Oregon? A. I came back to Washington and then I went back out to Portland.

Q And when you were in Portland, Oregon, you talked to James B. Elkins, who was a big-time gambler and racketeer.

Is that right? A. Big-time for Portland, yes.

Q Big-time for Portland. And you talked to him about certain information he had concerning the Teamsters and labor racketeering in Portland, Oregon

247 Is that right? A. Yes.

Q. Did you talk to him at all about these labor forms you have been talking about under Section 9(f) and (g)? A. No, I did not.

Q. Did you talk to him about these financial -- these forms that have to be filed with the Internal Revenue Service which are called Forms 990, I believe? A. Mr. Pickens, I would only talk to people about the things they have information on, and I don't believe he would have any information on that and I didn't talk to him about that.

Q. Then while you were in Portland you also talked to Wallace Turner and William Lamport, who were newspapermen with the Portland "Oregonian"? A. Yes.

Q. And you talked to them about labor racketeering? A. The same situation that I talked to Mr. Elkins about.

Q. And did you also talk to a Mr. Leo Plotkin? A. No. I talked to him in Seattle though.

Q. Around this same time? A. Yes.

Q. And who was Leo Plotkin? A. He was a runner for gambling places and he had some other functions that he performed.

248 THE COURT: Here we go again, I think.

BY MR. PICKENS:

Q. When you were out there did you also talk to Mr. Stanley Earl who was a member of the City Council in Portland? A. I am not sure if I did or not at that time.

Q. Did you talk to him prior to the hearings? A. Yes.

Q. In January? A. Yes. I can't remember now whether I talked to him -- if you know I did then I will agree that I did. I just don't remember.

Q. What did you -- A. Did I say at the last hearing that I had? Did I -- if I did I can tell you what I talked to him about. I am just not sure now.

Q. I think you testified that you talked to him. I don't remember. A. Well, if I did talk to him I will tell you what I talked to --

THE COURT: He didn't testify on direct examination in this court

that he talked to him.

MR. PICKENS: No, he did not, your Honor.

THE COURT: No. Well, then --

249 THE WITNESS: I don't remember.

THE COURT: -- refresh his recollection. The witness says he doesn't remember whether he did or not. Do you know whether he did? If you do, tell him so. Refresh his recollection about it if you want the truth of the matter.

I will repeat again, I don't know what this has got to do with it but I guess I am flying blind half of the time.

BY MR. PICKENS:

Q. Do you know that the jurisdiction of the Government Operations Committee is defined in the Legislative Reorganization Act of 1946?

A. I understand that.

Q. Is it your understanding that it is defined as concerning budgeting and accounting, that is, except for appropriations, and the reorganization of the executive and legislative branch of the Government?

A. I thought there was something more to it. If you have it I will read the whole thing

Q. Well, one of the duties of the Committee, is it not, is to carry on a study of Government operations at all levels to determine its efficiency and economy? A. That is correct.

Q. Are you familiar with the fact that the Permanent Sub-

250 committee was set up in February 26th, 1948?

I mean, are you aware of the fact that the Subcommittee was organized and jurisdiction given to it by the full Committee on February 26th, 1948? A. I don't know the history of it.

Q Well, Paragraph 2 in that grant of authority states:

"The principal function of the subcommittee shall be to investigate complaints and information coming to its attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corrupt or unethical practices and waste and extravagance in transactions, contracts, and activities of the

Government or of governmental officials or employees."

You are familiar with that jurisdiction of the Subcommittee, are you not? A. Well, I am familiar with the first page which you read, which I said I am familiar with, but I am not familiar with that --

Q. Well, then, also on that same --

THE COURT: Well, possibly since I have had to interrupt, or at least thought I had to, Mr. Hitz and now you from time to time maybe I am wrong and you are right, but that speaks for itself.

251 Why are you asking the witness?

MR. PICKENS: Well, my next question, your Honor, is going to be whether he knows of any additional authority --

THE COURT: All right.

MR. PICKENS: -- other than the Reorganization Act of 1946.

THE COURT: All right.

MR. PICKENS: And the authority that is set forth in these minutes of February, 1948, and I wanted to refresh his recollection because he said he didn't recall.

THE COURT: All right That is all right.

BY MR. PICKENS:

Q. Also you recall on that day it was further unanimously agreed that the Subcommittee be authorized to proceed with any investigation within the jurisdiction of the full Committee? A. I can't recall that. Of course, I wasn't there in 1948 So it was six years before I came with the Committee - - seven years.

Q. Well, other than the Legislative Reorganization Act of 1946 and this delegation of authority on February 26, 1948, do you know of any other authority that has ever been granted to the Subcommittee by its parent, the Permanent Committee? A. I am not even familiar with that. So I cam not familiar with anything else

252 Q Now, you, I believe, several times called this investigation into the violation of -- non-enforcement of Government laws in the labor field, and Senator McClellan in these minutes has continuoully referred to it as an investigation into the field of labor racketeering.

Are the two terms synonymous as far as you are concerned? A. Well, as I explained this morning, I think one is a section of labor racketeering, is a larger, more broad title for what we were doing.

This is one section. This gets into the improper use of union funds and the filing of financial statements.

Q. Now, I want to refresh your recollection on this meeting of January 10, 1957 with one sentence here. This is the meeting of the Subcommittee.

"The Chairman stated that as a result of the testimony in the procurement services of the military before this Subcommittee, it was indicated that there was a nationwide condition with respect to labor racketeering and that, under the authority he has, he authorized the staff to conduct the preliminary investigation."

Now, you were present at this meeting, were you, during the entire meeting? A. Yes, sir.

253 Q. Would you tell me what the authority was or where he obtained his authority or what Senator McClellan's authority was to conduct a nationwide investigation of labor racketeering? A. It is in the rules of the Subcommittee. The rules of the Subcommittee.

Q. Well, specifically, what is that authority? A. Well, if you get the rules I will show it to you

Q. Now, I am talking about the substantive authority. A. The Chairman has a right to conduct a preliminary investigation and to assign the --

THE COURT: Just a moment, Mr. Kennedy. Now, again you are asking for the opinion of the witness as to what authority he had. It is my duty to decide what authority the Committee had.

Now, if the Committee had taken the position somewhere along the line that "we have no authority to look into this", then I think that probably would be material, if the Committee itself thought it was without jurisdiction.

I suppose that would have some weight or should have some weight with the Court. But you are asking Mr. Kennedy's opinion of what authority he had when the documents already in evidence spell it out for whatever it may be worth.

254 I have got to interpret them and decide what authority they had and decide whether they exceeded it in the inquiry that they wanted to make of Mr. LaPoma.

Now, we will just be wandering around the town here for days if I let this line of inquiry go on.

MR. PICKENS: Well, my only purpose, your Honor, is to find out specifically what authority they had, what they claim they had.

THE COURT: Well, you have it. You have it in the document that is already in evidence What you are asking is Mr. Kennedy's opinion of what he thought he had a right to investigate. And I don't care, with entire deference to Mr. Kennedy who I am sure understands what I am saying and why I am saying it, what Mr. Kennedy's opinion was. Do I?

MR. PICKENS: No. You have to decide that, the ultimate --

THE COURT: Yes.

MR. PICKENS: -- the ultimate question.

THE COURT: But do you want him to tell me why he thinks he is right?

MR. PICKENS: No. I am seeking to find out whether there was anything beyond the '46 Act.

THE COURT: Well; he has answered that.

MR. PICKENS: Or beyond this resolution of February --

255 THE COURT: And he has answered that. And now you are asking him what he thinks he had authority to do. I have forgotten exactly how you phrased your question, but you have gone beyond, in your inquiry of him, what authority the Senate or the parent Committee or the Sub-committee gave him.

You are now asking him what he thought he had a right to do. Now, what he had a right to do is spelled out, whether spelled out well or not, I don't know yet.

BY MR. PICKENS:

Q. Mr. Kennedy, when did you first obtain these forms 990; that is the tax forms for the Local 174 or the Joint Council 28? A. I don't have the answer to that question. I know the labor forms but I don't know the --

Q. No, I am talking about the tax forms. A. Yes. I don't know the answer to that.

Q. Well, you obtained them before the hearing on January 16th? A. I am not even sure of that.

256 If I said I did, I did, Mr. Pickens.

Q. In the Brewster case, you testified, with one exception, and that was the Western Conference of Teamsters.

MR. HITZ: Will you give me the page?

MR. PICKENS: Starting on the bottom of Page 363, the top of Page 364.

THE COURT: Of the hearings?

MR. PICKENS: Of the hearings in the Brewster case.

THE COURT: Oh. All right.

MR. PICKENS: May I show him this to refresh his recollection?

THE COURT: Yes.

Do you have a pending question?

THE WITNESS: Does it say in there -- Could I just ask, does it sat in there when we received them, or did it indicate if we did receive them?

If it does indicate we did receive them, I can't answer when we did

BY MR. PICKENS:

Q. It indicates you said you received them prior to the hearing of January 16. A. I do, in there? I am sure it is accurate. I can't help as to the date I received them.

Q You have no idea? A. No.

257 Q. Did you receive them from the Treasury Department?

A Well, I expect that I did.

Q. Do you recall whether you received them from the Internal

Revenue Agent in Seattle, Washington or the Treasury Department in Washington, D. C. ? A. I am sure I didn't receive them in Seattle, Washington. If I received them, I had to receive them from the Treasury Department here.

THE COURT: Here?

THE WITNESS: Here in Washington.

BY MR. PICKENS:

Q. And are you certain now that you received them prior to January 16? A. No, I am not. If it says there that I received them, and if that is the record of the hearing, and it says I received them, I received them, because that is more accurate than my memory now.

That was at the time. So if it says I received them, I received them. That is all I can say to you.

THE COURT: As of now, you don't recall whether you did or not; do you?

THE WITNESS: I don't recall; no. I don't.

THE COURT: I mean, when you did?

258 THE WITNESS: That is right.

THE COURT: That is what you said.

BY MR. PICKENS:

Q. Now, in order to obtain those forms, it was necessary to have a Presidential Order; was it not? A. That is right.

Q. Did the Committee have that? A. Yes.

Q. In addition to the Presidential Order, it was necessary for the Committee to pass a resolution? A. Yes.

Q. Was it not? A. Yes

Q. Did the Committee pass a resolution? A. On any tax returns that we ever received, we had a resolution. Not only had to go through the Subcommittee, but has to go through the Government Operations Committee.

Q. Could you furnish us with a copy of that resolution? A. If you write down exactly what you want, I will get it for you.

THE COURT: Do it at the close of the session, Mr. Pickens.

THE WITNESS: You want me to try to find out the date, Mr. Pickens, that we got them, and then the resolution?

259 MR. PICKENS: No. I just want the resolution.

THE WITNESS: And what is it for? The resolution for what?

MR. PICKENS: It is the resolution to --

THE WITNESS: I am talking about tax returns. We need a resolution for tax returns.

MR. PICKENS: For Form 990.

THE WITNESS: For tax returns.

MR. PICKENS: That were filed by Local 174, Joint Council 28, and the Western Conference of Teamsters.

BY MR. PICKENS:

Q. Now, it is true, isn't it, that you can obtain the original application that is filed with the Treasury Department of tax-exempt --

THE COURT: The question at the moment, Mr. Pickens, is what is it precisely -- I guess you might as well do it now instead of later.

THE WITNESS: I can get it later from him.

THE COURT: I would prefer it myself, because you have asked me to let you go at three-fifteen.

THE WITNESS: O. K.

THE COURT: The question is, exactly what do you want him to bring you tomorrow morning?

MR. PICKENS: I want the resolution --

THE COURT: He doesn't know.

260 MR. PICKENS: I want the resolution of the Subcommittee of the Government Operations Committee, and the resolution of the Government Operations --

THE COURT: Resolution concerning what?

MR. PICKENS: The resolution concerning the release by the Treasury Department to those Committees of the Forms 990 of Local 174, Joint Council 28, and the Western Conference of Teamsters.

THE COURT: Right. What else?

MR. PICKENS: And that is all.

THE COURT: All right.

Now, Mr. Kennedy, when I adjourn today, the reporter will read --

THE WITNESS: I can remember that.

THE COURT: All right.

THE WITNESS: I am all set.

THE COURT: Go ahead.

MR. PICKENS: May I have about three minutes, Your Honor? I have to change my entire --

THE COURT: You want me to recess for a few minutes?

MR. PICKENS: Yes.

THE COURT: All right.

(Whereupon a short recess was taken.)

BY MR. PICKENS:

Q. Mr. Kennedy, when was the first time, the first date, if you
261 can fix it exactly, that you learned that the Teamsters were going to challenge the jurisdiction of the Committee? A. Well, I don't know if Mr. Bassett told me on December 15 or whether he told me in a telephone conversation. I don't remember exactly.

THE COURT: It was in Seattle, though, wasn't it?

THE WITNESS: I am not sure of that. December 15, I left Seattle. It might have been -- We served some subpoenas on the banks; and it might have been that the unions, Bassett speaking for the Union came in and contested the banks turning over these records to us on the grounds that we didn't have jurisdiction

I couldn't tell you exactly how I knew. All I know is that I knew during that period of time.

BY MR. PICKENS:

Q. Would you say before January 1 of 1957? A. Once again -- when did the Western Conference of Teamsters challenge the subpoenas that we served on the banks?

Q. I think it was December 28 or 9th. A. Then it was before. I would think, then, that I knew it either from that or from what Sam

Bassett told me during that period of time.

Q. I believe you had a telegram from Mr. Bassett or Mr.
262 Brewster shortly after you talked to them and Mr. LaPoma in Seattle. A. Did he mention jurisdiction in that?

Q. I think he did, on the 19th. A. That is fine. Sometime during that period of time.

Q. Anyway, after it became apparent to you that they were going to challenge the jurisdiction of the Committee, did you discuss this with Chairman McClellan? A. Yes, I did.

Q. What was the nature of your discussion? A. The nature of our discussion is that if we got into this question of a jurisdictional problem we had better have jurisdiction and make sure that the jurisdiction was well founded, because if you are going to get into an argument or discussion like this, you had better make sure that you are on good ground.

Q. And that was the reason, was it not, that you wanted to talk to Secretary Mitchell and Judge Leedom of the National Labor Relations Board? A. What do you mean, that was the reason?

Q. Because you wanted to establish the jurisdiction of your Committee. A. It is not a question of establishing the jurisdiction of our Committee. We wanted to make sure that there wasn't any question
263 about it.

THE COURT: The question to you now is, is that the reason you talked to Secretary Mitchell and Mr. Leedom?

THE WITNESS: Well, you mean, would I talk to Secretary Mitchell and Mr. Leedom if they hadn't questioned the jurisdiction? I doubt it

I am sure that I would have talked to them any way. If that is it.

BY MR. PICKENS:

Q That is not what I asked. A. Well, the answer -- if you are asking me whether the reason I talked to Mr. Leedom and Mr. Mitchell was the question raised about jurisdiction, that is not true. I would have talked to them anyway.

Q. But you did talk to them about the question of jurisdiction; did you not? A. Yes, I did.

Q. And you also talked to Assistant Commissioner Winkle of the Internal Revenue Service; did you not? A. Yes.

Q. Did you talk to him because this question of jurisdiction had come up? A. No. The same answer as for Leedom and Secretary Mitchell.

Q. Now, you talked to LaPoma, I believe, December 15, 1956,
264 in Seattle? A. Yes.

Q. Who was present when you talked to him? A. I believe Mr. Sam Bassett, Mr. BeHino and myself.

Q. What did you talk to Mr. LaPoma about? Tell me as near as you can recall? A. Well, I told it all yesterday.

Q. Tell me as near as you can recall what you said to Mr. LaPoma. A. We asked his background, where he came from. How he had changed--the discussion about his name, and the fact that he had married a girl by the name of Cavanaugh, and he had the nickname of Cavano.

How much money he received. What loans he had gotten from the union. What his position was. What his responsibilities were in that position. How long he had held it.

The monetary policies of the union. How they handled their checks. Who signed them. Talking about the fact that they have to be signed by two people, as I remember.

Discussing the fact how much money was left in the treasury because of the loans that they had made, and that he didn't think that they would make any further loans. Campbell Soup stock. Money he had borrowed and other officials of the union had borrowed for Campbell Soup stock.

265 We discussed the fact, the vouchers he gets, he said he gets cash from the union and spends whatever he needs and returns what is left; and he submits vouchers.

He takes people to lunch; he takes people to dinner. He said he had just taken twelve people from the Prudential Insurance Company to

dinner the day before and he paid for their dinner.

That is roughly it. There might have been some other matters.

Q. Did you talk to Mr. LaPoma about any of these tax forms or Labor forms that labor organizations are required to file? A. I don't believe so.

Q. At what point did you serve the subpoena on him? A. Well, as I said yesterday, I believe it was right at the end of the conference. I am not positive of that.

Q. Did you explain to him that you were looking for tax forms or labor forms that they filed? A. No. What I wanted from him was his books and records

Q. All of his books and records? A. Well, the books and records covered by the subpoena

Q. Did you tell him what the purpose of your investigation was?

266 A. I don't think that I went into it. I don't think that there was any discussion about it.

Q. Did you discuss with him how these books and records were relevant to what you were looking for? A. No; I don't think he asked; and I don't think we volunteered.

Q. Did you tell him under what authority you were demanding these books? A. No. There was never a question about them accepting the subpoena, as I understood it.

Mr Bassett indicated that clearly. They were going to accept the subpoena; and Mr. Bassett said: You have much broader jurisdiction than the Internal Revenue Department.

I presume he was speaking for both Mr. Frank Brewster and Mr. LaPoma

He said: You have much broader jurisdiction, so we can't take the same position with you as we took with the Internal Revenue Department; but still, I am going to take this under consideration.

Q. Then you say you subsequently had this conversation with Senator McClellan; and you said you talked about jurisdiction.

I wonder if you can tell me in more detail what you said to

Senator McClellan and what he said to you? A. I told him that the question of jurisdiction was going to be raised.

I think it is roughly the same thing that I said at that conference. That the question of jurisdiction was going to be raised. And I told him about these forms that had been filed with the Labor Department and the fact that the labor unions are tax exempt, and that I felt that we had jurisdiction.

During that period of time, I had conferences with him, I suppose, every day.

During that period of time, I had conferences with the Labor Department and the Treasury Department; and I would keep him advised as to how we were progressing on it.

And he was clear, and we were all clear that if there was a question that could be raised lawfully and legally about the jurisdiction of the Committee, we did not want to have hearings on it. But we were convinced that we did have jurisdiction.

I explained and he explained to the rest of the Committee in that executive conference how we clearly had jurisdiction in this field. And the Committee decided to go ahead with hearings based on that.

Q. You said, I believe, there were three areas. One where you clearly had jurisdiction; one where it was doubtful; and one where you were beyond your jurisdiction.

What did you discuss about that? Did you talk about those three fields? A. Well, I think there was a question raised about, for instance, the garbage situation in Los Angeles. Whether we had jurisdiction in that field.

There might be assumed or said because it is interstate commerce that perhaps we did have jurisdiction. It was a real question as to whether we did and whether we could go into a matter such as that.

THE COURT: Did you say "interstate"?

THE WITNESS: Yes.

THE COURT: Or "intrastate"?

THE WITNESS: Well, it was intrastate, and it was a question of

whether the Teamsters Union was doing this in Los Angeles, and the collusion or alleged collusion between certain employer garbage collectors and the union, and the same thing that existed in New York City -- whether this was part of a pattern; and perhaps, as the Teamsters operated throughout the country, we had jurisdiction.

I think there was a real question; and we didn't feel we should pursue that matter.

There was a question raised on the Portland situation also. It was felt at least part of it concerning some of the pinball operations or some of the other operations, that we didn't have jurisdiction, or a question could legitimately be raised as to whether we had jurisdiction.

269 Although we had information that a lot of these operations were financed with union funds and that once again this would get back into the question whether the unions were making correct reports to the Labor Department.

And the second thing is whether this was a correct and proper use of union funds and for them to continue their tax-exempt status.

Those matters were discussed.

Then we discussed the New York situation which we had uncovered The fact that these large sums of money had been paid to fictitious people in one of these New York locals; and that once again, the reports that we had gotten in early November of 1956 from the Labor Department, indicated these reports were false.

And then we got into the question of what the Labor Department intended to do about it, when we demonstrated and brought out that those reports were false.

And that is when we had our conversations with Secretary Mitchell.

BY MR. PICKENS.

Q When you discussed the New York situation, you determined you had jurisdiction? A. Yes.

Q. And did you call witnesses to this hearing at which Mr. LaPoma

270 testified? A Yes.

Q. Concerning that? A. Yes. Called, I guess, about eight or

nine witnesses; and they all testified in public session.

Q. You did call certain witnesses during this same series of hearings, though, concerning the Portland situation; did you not? A. Yes, we did; and we had them in Executive Session.

Q. Have those Executive Sessions ever been made public?

A. No, they have not.

Q. Is there some reason why they haven't been made public?

A. Well, because, number one, if we have people in Executive Session, there has to be a reason to make them public, ratner than to make them public because there is no reason not to.

Second thing is because there was a question of jurisdiction on it.

And the third is, we ultimately went into this whole matter in the Select Committee.

Q. What is the purpose of having a witness in Executive Session?

A. Well, because at this period of time we had explained to the Com-

271 mittee those matters that we had gone into, and that we had uncovered in our investigation. We explained to them what we uncovered about the garbage. We explained some of the other matters that were not within our jurisdiction in New York City.

I felt and the Chairman felt that it would be better, as long as we were offering this resolution for broader jurisdiction that he had offered in the Senate, I believe, on the 7th of January, that the Committee, themselves, would understand some of the things that we were going to get into.

We had these people before the Committee in order to give them an insight into some of the matters that we felt that if we got this broader jurisdiction, or if a select committee or special committee were set up, this was one of the matters we intended to pursue.

So that the Committee would not be in the dark about it and that they would have more information than just having it come from me, personally.

Q. Why would you make the testimony of some of these witnesses public, and I believe most of it is contained in Government Exhibit 8, and

yet the testimony of other individuals during the same time was not made public? A. Well, just for what I explained to you.

I don't think you will find any of the witnesses from Portland,
272 Oregon made public.

Q. Well, for what reason was that not made public and the rest of them were made public? A. Because the others clearly were germane.

Mr. Leedom testified. Secretary Mitchell testified. Mr. Winkle testified, from the Treasury Department. And that was part of the hearings that we were holding during this period of time in connection with Mr. LaPoma, in connection with Mr. Brewster, in connection with Mr. Virgilio from New York; in connection with Mr. Reiss from New York.

It was all the basis of the material that we were going into in these hearings. What the Treasury Department's answer was to these matters. What the Labor Department's answers were as to why they were not - - when they found these reports to be false, what steps they planned to take.

THE COURT: And why the Committee, I take it, thought that in those respects it clearly had jurisdiction.

THE WITNESS: Yes. But in addition to that --

THE COURT: Was it the purpose to establish to the Committee that these were matters concerning which it did have jurisdiction?

THE WITNESS: No, not really.

THE COURT: All right.

273 THE WITNESS: Your Honor, we had established -- The Committee was convinced prior to this, of holding these hearings, that we would have jurisdiction.

THE COURT. Now, Mr. Pickens wants to know why you had these witnesses, Secretary Mitchell, Mr. Leedom, Mr. Winkle, in Executive Session.

Isn't that your question?

MR. PICKENS: That is right.

THE COURT: He wants to know why you had them in Executive Session rather than public session.

THE WITNESS: You mean why we had them in Executive at that time?

THE COURT: Yes.

THE WITNESS: I have no particular explanation for it. The Committee just decided in this new investigation or this part of the investigation that they were going to undertake that they wanted to find out or have a discussion in private at the beginning at least with some of these people.

Now, I related what the Secretary had told me. The Chairman had talked to the Secretary and Mr. Leedom, and some of these other people; and we decided that the Committee should talk to them.

Then the Committee talked to them and we decided we would make
274 that testimony public

THE COURT: Would that perhaps be -- the Executive Session, I mean -- perhaps to sort of chart a course for the future?

THE WITNESS: Well, I think -- I would expect that that was part of it, so that the Committee members would clearly understand the type of thing that we were going to go into

It was then considered that we might have them back in open session, but it was not necessary at that time because we could make their Executive Session appearances public

BY MR. PICKENS:

Q Really, it was to establish the jurisdiction of the Committee; was it not? A No, it wasn't to establish the jurisdiction of the Committee because the Chairman and I had already spoken of that and said that we were going ahead in this matter.

So it wasn't a question of establishing the jurisdiction.

Q. Was it to convince the other members of the Subcommittee that you had jurisdiction? A I don't think so

Q. What was your purpose in calling them there?

275 THE COURT: I think he has answered that

THE WITNESS The Committee wanted the information. Not sufficient that just the Chairman and I have the information.

BY MR. PICKENS:

Q. Well, they didn't refuse you the information; did they?

A. No.

Q. Prior to this Executive Session.

All right, now, what was your purpose in calling these seven witnesses whose testimony you haven't printed, during this same period, on the 17th and 18th of January?

THE COURT: In Executive Session?

MR. PICKENS: In Executive Session.

THE WITNESS: That is the group from Portland. As to that, I have already given to you as to why we had them in Executive Session.

BY MR. PICKENS:

Q. Why did you have them in Executive Session? A. Because I felt it was better, that as long as the Committee was going into these matters, or the Committee Chairman had offered a resolution in the Senate, giving us broader jurisdiction to go into a lot of other matters, broader jurisdiction to go into this question of labor racketeering, I felt it would be helpful if the Committee members heard some of the matters

276 and some of the things they would be taking up once the Committee got broader jurisdiction or a select committee was formed.

As a matter of fact, it turned out to be the first matter that we went into once the Select Committee was formed, the Portland hearings.

Q. Now, the next question is, why the testimony of those seven witnesses was not made public along with the testimony of all the other witnesses that you call in Executive Session? A. I will give you the explanation I have already given you.

Number one, there has to be a reason to make it public, rather than a reason not to make it public. You don't just make them public. There has to be a particular reason to make them public.

THE COURT: All right. Now that is what he wants to know.

Mr Pickens wants to know why you did make public testimony you received in Executive Session.

Is that your question?

MR. PICKENS: That is my question, why he made some public and didn't make the rest public.

THE WITNESS: Because the questions that were raised by the people that testified in public session as to the position of the Government
277 could only be answered by the testimony of Mr. Mitchell and Mr. Leedom and Mr. Winkle. That testimony had already been given; and the way to answer that would be through --

THE COURT: To make public what they had already said in private?

THE WITNESS: That is right.

THE COURT: That seems simple enough.

BY MR. PICKENS:

Q. Now, Mr. Hitz referred to a letter, I believe, in his direct examination, that had been written on November 6 by some member of the Committee or the Chairman or you to Secretary Mitchell.

Do you recall that? A. Yes, I do.

Q. That was a letter seeking certain information; was it not? A. Yes, it was.

Q. What was in that letter? A. Well, if we have the letter, I will refresh my recollection.

THE COURT: Do we have it?

Mr. Witness, while counsel is looking at that, does your hearing today start at three-thirty, or would you just like to be there at three-thirty?

278 THE WITNESS: No, Your Honor. Because of the vote on the Civil Rights matter that is coming up in the Senate this afternoon, we are not going to have the hearing.

THE COURT All right.

THE WITNESS: So I can stay as long as you wish.

THE COURT That won't be long.

Now, what are you handing the witness?

MR PICKENS: I am handing the witness, Your Honor, copy of a letter dated November 6, 1956, addressed to the: "Honorable James P. Mitchell, Secretary of Labor," attention of Stuart Rothman, from John L.

McClellan, Chairman.

It was referred to by Mr. Hitz, I believe, in direct examination.

THE COURT: And the date of it?

THE WITNESS: November 6, 1956.

MR. PICKENS: November 6.

THE WITNESS: It is a letter addressed to Mr. Mitchell; and it is signed, "John L. McClellan," and it requests --

Can I read the first paragraph?

THE COURT: What is your question about this letter?

BY MR. PICKENS:

Q. My question is, what was it you were seeking from Mr. Mitchell? A. Could I read it, and then you would know better?

THE COURT: Yes.

279 THE WITNESS: "In a matter now under investigation by this Subcommittee, it is requested that the registration certificates filed under Public Law 101, 80th Congress, Section 9, Sub F(2), showing the names and titles of the principal officers of union locals, be made available for examination to staff members of this Subcommittee on the following listed union locals, as well as such others as may be requested by staff members from time to time." Then we list UAW, and about seven or eight locals. International Chemical Workers. A couple locals there. Brotherhood of Teamsters, maybe ten or fifteen unions. Local 5, Amalgamated. Local 139, Doll & Toy Workers.

Local 1115E, Retail Clerks.

"Your cooperation in this matter will be greatly appreciated."

"Sincerely yours,

"John L. McClellan"

BY MR. PICKENS:

Q. In that letter you do not ask any information, did you, concerning the Western Conference of Teamsters? A. No, we did not.

280 Q. Or local 174? A. No, we did not.

Q. Or Joint Council 28? A. No

Q. In that letter, you were not inquiring into the labor forms, as such, were you? A. Yes. We were inquiring into the labor forms on those unions that we had already investigated, which were the ones up in New York City, and the ones that we had information on.

As I have said before, we did not at that time, on November 5, have this information on the Teamsters Unions up in Seattle.

We only had the information on the New York ones and, therefore, we asked for the financial statements on these in New York City that we had information on, including the one in which we knew that these large sums of money had been paid to fictitious people.

Q. But, in any event, this letter on November 6 was not written to obtain any information concerning the Western Conference or Local 174 or Joint Council 28? A No.

* * * * *

284 Q. Mr. Kennedy, were you able to locate those resolutions in regard to Forms 990 of the Internal Revenue Service? A. That is where I think there is some confusion, because I don't think that we ever mentioned those forms in the hearing that was held back in January. I couldn't find that we did.

If you have some reference to it I would like to see it.

Q. Well, have you ever seen these Forms 990? A. Well, I have seen the ones that we got from the Western Conference of

285 Teamsters, which was a copy of the one Donald McDonald sent in, and from his work papers. But I think beyond that I don't believe we had it.

Q. Well, when did you obtain those? Do you recall? A. That, I believe, was in February or March or whenever the Western Conference ultimately turned the books over to the Committee.

Q. Well, I believe I called your attention yesterday where you testified in the Brewster case that you had those Forms 990 with the exception of the Western Conference A. No. I don't believe I said that That is why I looked it over I should have looked at it at the time you pointed it out to me. I don't think I said that.

Q. Well, if you did say that it was an error because you never have had any Forms 990 prior to January 16th? A. Not that I can find. Now, if you can draw my attention to some place where I mentioned it -- I will make another search but I couldn't find them and I don't remember that we ever had them.

And I think that that testimony showed that I was equally indefinite at that time and that I answered the same way that I am answering now; that I don't believe we ever had them until we got the ones from the Western Conference of Teamsters.

Q. Well, on Page 363 of the Brewster transcript, and
286 I will read --

THE COURT: Of the what?

MR PICKENS: Of the transcript in United States vs. Brewster, Criminal Action No. 289-57.

BY MR. PICKENS:

Q At Page 363 you were talking about labor forms and then I asked the question:

"Q. Do you recall later, or earlier, you obtained some of these forms 990 from some source? Do you mean what I mean when I say form 990?

A Well, I am familiar with it, and if you have it here I would like to look at it.

Q It is a form that is required by --

A. Tax exempt?

Q -- Internal Revenue Service?

Do you recall where you obtained those forms?

A From the Treasury Department.

Q Do you recall when you obtained them?

A. With one exception. I think, I believe some of them were obtained later on, February and March, from the Western Conference of Teamsters.

287 But I think the ones -- at least whatever we referred to during the committee hearings -- would be obtained

from the Treasury Department, because we hadn't received any books of the Western Conference at that time.

Q. You later obtained an order from the President of the United States, did you not, allowing you to use these forms 990 and these forms filed pursuant to Section 9 (f) and (g) of the Taft-Hartley Act?

A. Well, we had always had that, at least since I have been counsel, had permission from the Treasury Department to use or to examine income tax returns.

Q. You mean permission from the President?

A. Yes.

Q. Of the United States?"

Well, --

A. Well, my answer is the same today as it is there.

Q. Is it your best recollection that you never had any of these Forms 990 prior to January 16th? A That is my best recollection.

288 Q You never had them prior to the time that you questioned Nugent LaPoma in closed or in open session on -- between January 16, 1957, and January 19, 1957? A. Yes.

Q. Well, now, is it -- does that refresh your recollection as to whether or not the Committee had ever passed a resolution specifically asking the Treasury Department for the Forms 990 that pertained to either Local 174, Joint Council 38, or the Western Conference of Teamsters, during this period, October, November, and December of 1956, and January of 1957? A. Well, I don't believe that we ever did pass such a resolution if we didn't obtain the tax returns. And if I referred -- again we have to go back to the fact that if I referred to the tax returns in the hearing then there is only one source for them and that would be the Treasury Department.

And to get the ones from the Treasury Department we have to pass a resolution I don't remember referring to them and so I don't believe there was ever a resolution passed. I don't think that that question ever arose.

Q. Well, could you check further on that? A. Yes, I have checked. The Subcommittee has moved out of the other offices, so it is a little confusing. But the best checking that we could do shows that there aren't any. We will check again.

289 THE COURT: Well, can you check better from now on, do you think?

THE WITNESS: Well, I will try to check back again. I will try to do what I can and see if there is anything further that I can find out.

If I find anything I will report to you. But my best recollection is there is none, if that helps.

BY MR PICKENS:

Q. Then prior to the time that you questioned Nugent LaPoma you never had seen any of these Forms 990 covering any of these three -- A. No.

Q. -- Teamster organizations? A. That is my best recollection.

MR. HITZ: You are speaking of his testimony, the questioning of La Poma --

MR. PICKENS: Well, the questioning, his testimony, the questioning before the Subcommittee from January 16th to January 19th, 1957.

BY MR. PICKENS:

Q. Now, I have -- I was supplied pursuant to a subpoena with the transcript of the meeting of the Subcommittee on January 10, 1957, concerning which this is a verbatim transcript of which the minutes are now in evidence.

290 I have also been supplied with the minutes of February 7th, 1957, which is the meeting at which the contempt citations of Nugent LaPoma and Frank Brewster and Mohn were taken up, and I notice in these minutes it also, likewise, refers to a verbatim transcript.

I wonder if you could supply that? It would be the transcript of February 7 of the meetings of the Committee on Government Operations.

MR. HITZ: Could I see where it refers to that in the minutes?

(Thereupon counsel conferred.)

BY MR. PICKENS:

Q. It is a practice, is it not, Mr. Kennedy, or at least it has been in 1957, for the Subcommittee meetings and the full Committee meetings to be taken down by a reporter so that you have a complete transcript of those meetings? A. Well, I left the Subcommittee the first of February and became counsel for the Senate Select Committee. I don't know whether the Subcommittee now has transcripts of their meetings or not, when you talk about February.

Q. Well, the transcript is referred to in the minutes of February the 7th, 1957. A. Well, then for that meeting then obviously there was a transcript. I don't know for the rest of 1957 whether they have transcripts.

291 Q. Were you familiar with the fact that there was a transcript of this meeting of January 10th -- A. That is right.

Q. -- concerning which you have testified? A. That is right.

Q Are you no longer connected with the Government Operations Committee -- A. That is right.

Q -- or the Subcommittee? A. That is right.

Q. You and your staff are now employed by the Senate Select Committee -- A. That is right.

Q. -- on Improper Practices in the Labor - Management Field?

MR. PICKENS: I wonder if Mr. Hitz would attempt to obtain that transcript of the meeting --

MR. HITZ: Yes, I will.

MR. PICKENS: -- of February 7, 1957?

MR HITZ: Yes, sir.

MR. PICKENS: And also for the meeting of January 14, 1957, that we discussed or there was some testimony about yesterday?

THE WITNESS: Is that the Government Operations Committee?

292 MR PICKENS: That is the Government Operations Committee.

THE COURT: Or the Subcommittee? Which?

MR PICKENS: Well, the one on the 14th is the full Committee, your Honor.

THE COURT: Well, I have as one exhibit minutes of a meeting on January 14th.

MR. PICKENS: That is just the minutes, your Honor. That is not the verbatim transcript.

THE COURT: Right. You want the transcript?

MR. PICKENS: I want the transcript.

THE COURT: Now, who is going to get it, Mr. Hitz or Mr. Kennedy?

MR. HITZ: I will try to get it. I will get it if it exists.

THE COURT: All right.

MR. PICKENS: That is for --

MR. HITZ: That is January 14th?

MR. PICKENS: And February 7.

MR. HITZ: All right.

MR. PICKENS: For the full Committee.

MR. HITZ: Is February 7 a full Committee --

MR. PICKENS: Full Committee, yes, sir.

BY MR. PICKENS:

Q. You testified, I believe, that after you learned
293 the Teamsters were going to challenge the jurisdiction of the Committee you discussed it with Senator McClellan, and I asked you whose -- was it your suggestion or Senator McClellan's suggestion that you go down and talk to the Secretary of Labor. Mr. Mitchell. A. I think that it was my suggestion.

Q Isn't it true that Senator McClellan told you to go down and talk to Secretary Mitchell and see if he would cooperate with the Committee in laying some basis for the Committee's jurisdiction? A. No.

Q. On Page 28 of the transcript of the meeting of the Subcommittee on January 10, 1957, --

THE COURT: In connection with what case or with whom?

MR. PICKENS: This is the transcript of the meeting of the Permanent Subcommittee, a meeting in executive session or an

executive meeting, concerning which we already have the minutes in evidence.

THE COURT: All right.

MR. PICKENS: That is January 10, 1957.

BY MR. PICKENS:

Q. At the top of Page 28 Chairman McClellan said: (reading)

THE CHAIRMAN: Let me ask you this: You
294 have talked to Mitchell, have you not?

MR. KENNEDY: Yes, sir.

THE CHAIRMAN: Has he indicated his willingness to cooperate?

MR. KENNEDY: Yes, he is very anxious.

THE CHAIRMAN: You talked to Meany, did you not?

MR. KENNEDY: No, I did not. I talked to the people down there.

SENATOR JACKSON: Which Mitchell?

MR. KENNEDY: The Secretary of Labor.

Now, that in part is what occurs on that page of the transcript.

MR. HITZ: What is the page again?

MR. PICKENS: Page 28, sir.

MR. HITZ: Thank you.

BY MR. PICKENS:

Q. Now, what did you take that to mean when Senator McClellan asked you if Mitchell, meaning Secretary of Labor Mitchell, had indicated his willingness to cooperate? A. He is Secretary of Labor. We were looking into some labor organization and we wanted to find out if he would cooperate.

Q. In what manner? A. Well, he is Secretary of Labor. Whatever we wanted from the Labor Department; whatever help or
295 assistance we needed in our investigation.

Q. Well, what help and assistance did you ask the Secretary for? A. Well, they have a lot of information over at the Labor Department that might be of help and assistance to us in what we were doing. In addition, it was the Secretary of Labor and we were looking into forms that were filed in his department.

He had an important role in it and it would be courtesy to find out if he was going to help or assist the Committee.

Q. Now, did you ask him about those forms? A. At the meeting? Which meeting?

Q. Well, prior to this meeting of January 10, 1957, prior to this Committee, meeting, this business meeting. A. Well, I met with Secretary Mitchell twice. The first time I don't believe we went into the forms. The second time we did go into the forms. The first time was a courtesy call by me on him to say that we had been out -- we looked into things that covered or were involved in his department and wanted to find out if he would cooperate.

Q. You said, "Yes, he is very anxious to cooperate". What did you mean? A. Just what I said. He was very anxious and he has
296 been very anxious to cooperate.

THE COURT: What is the mystery about that, Mr. Pickens? The witness says he meant just what he said.

MR. PICKENS: Well, I would like to know what he was very anxious to cooperate in connection with, your Honor. I think it is a very vital question.

THE COURT: Well, I don't but can you answer it?

THE WITNESS: Well, I can't answer it other than saying what I said before: That he wanted to cooperate with the investigation that --

THE COURT: He gave you the information that you wanted?

THE WITNESS: Yes.

BY MR PICKENS:

Q Well, what information had you asked from the Secretary prior to January 10? A. Well, I just say this to you: In most investigations that we conduct, if we are conducting -- if it is not an

investigation of a particular department -- and if we want the cooperation of the head of a department or the head of a state government -- I went to see the chief of police in Los Angeles.

I didn't discuss anything particularly but I wanted his cooperation. He also said he is very happy to cooperate. I have seen the District
297 Attorney in New York. I just think it is courtesy --

THE COURT: Mr. Pickens wants to know what kind of cooperation did you have in mind and did you discuss with the people you saw in the course of your investigation.

That is the question.

THE WITNESS: He said whatever we want "you ask us and we will give it to you".

BY MR. PICKENS:

Q Well, what did you ask him for? A. I didn't ask him for anything at that time.

Q Did you ask him for labor forms? A No, I did not.

Q Well, what was the purpose of your going down to see Secretary Mitchell then? A. Because of a courtesy call.

Q Well, what was the purpose in making a courtesy call? A. Because we had been looking in for a number of months, into labor organizations, various labor organizations, and we had received some information on Mr. Dave Beck. We had received information on Mr. Frank Brewster.

We had received some information on certain unions in Chicago, and we had received some information in Los Angeles and New York.
298 These involved the Labor Department. And I went down to make a courtesy call. In addition, Mr. Bellino went with me. Mr. Bellino comes from the same town as Secretary Mitchell. It was a friendly conversation that lasted a half hour in which he said he would be willing to cooperate.

There was no mystery to it.

Q There was no discussion about these labor forms? A. Not at that time. I do not believe there was although there might have been.

I don't believe there was but there might have been.

We talked about labor unions generally and we might have talked about the forms. It was just -- it was more of a courtesy call. When I saw him the second time we got down into these specific things that we were interested in.

The first time was a courtesy call.

Q. All right. Then let me ask you this:

Did you ask him to appear and testify before the hearing that you were proposing to have? A. No.

Q. Did you discuss the hearing that you were proposing to have?

THE COURT: Are you talking about Mr. Mitchell now?

MR. PICKENS: I am talking about Mr. Mitchell, your Honor.

299 THE WITNESS: No, I did not.

MR. PICKENS: I am talking about the subsequent hearings on January the 16th --

THE COURT: Yes.

MR. PICKENS: -- and 19th, 1957.

THE COURT: I understood that. But Secretary Mitchell?

MR. PICKENS: Secretary Mitchell, yes, your Honor.

THE COURT: All right.

BY MR. PICKENS:

Q. Well, then you went down and talked to Judge Leedom, the Chairman of the National Labor Relations Board, did you not? A. Yes.

Q And that was later, was it not? A. Yes.

Q. That, I believe, was on the 7th of January? A. Yes.

Q. And what time of day was that? A. I don't have any idea. I thought it was -- I think it was in the afternoon. I think it was around four o'clock.

Q. And what did you discuss with Judge Leedom? A. I discussed, I suppose, -- well, I discussed their cooperation and I discussed labor forms.

300 Q. Did you tell him about this investigation that you had been conducting -- A. Yes.

Q -- or this inquiry? Did you ask him to appear and testify at the hearing? A. No, I don't think I did. I don't know whether I mentioned to him that we might need him, but I don't remember that I did.

Q. Well, what sort of cooperation did you ask from him? A. Well, that we might be asking for information from the NLRB and specifically whether we could see some of his people about these labor forms and talk to some of his technicians in this field.

Q. Now, as of the 7th of January, at the time that you talked to Judge Leedom, did you have any of the forms required to be filed by Section 9(f) and (g) of the Taft-Hartley Act in regard to either Local 174, Joint Council 38, or the Western Conference of Teamsters? A. Joint Council 28, you mean.

Q. 28. I am sorry. A. Well, I don't know that.

Q. You don't know whether you had them or not? A. I don't know.

Q Isn't it true at that meeting that you asked --

301 you talked to Judge Leedom as to whether or not the Western Conference had ever filed any? A. I think so.

Q. And isn't it true that on the next day or two or three days later a request was made of Judge Leedom for these forms? A. Well, if you have the records -- I have had an awful lot going on. You are asking me whether it happened the 3rd of January or the 5th of January, the 7th of January.

I know that it happened after I -- I went home for Christmas on the 24th -- the 23rd of December. I came back on the 27th of December I left the following weekend. I came back, I believe, on the morning of the 4th, which was a Monday or a Tuesday.

I went to see Secretary Mitchell. Within two or three days of that we asked for the forms. Now, I can't tell you exactly what day now, five months later, whether it was the 3rd of January, the 4th of January or the 7th of January I just don't know that.

Now, if you have a letter that we wrote over -- I know we discussed the forms when we went down there and what their disposition

would be on whether -- if the forms were accurate or inaccurate.

I just don't remember what day it was out of the week.

302 Q. Well, let me -- maybe this will refresh your recollection: Did you have any of these 9(f) and (g) forms, required to be filed under the Taft-Hartley Act, prior to January 16, 1957? A. Yes.

Q. Well, what -- how long prior to that day did you obtain them? A. Well, we obtained --

Q. Now, -- A. -- four of them on November 7th.

Q. No, I am talking only of Local 176 and Joint Council 28.

A. Local 174.

THE COURT: You don't mean "176".

MR. PICKENS: 174. I am sorry.

THE COURT: You mean 174.

MR. PICKENS: I am sorry, your Honor.

THE COURT: Now, ask him again.

BY MR. PICKENS:

Q. Prior to January 16, 1957, had you received or obtained from any source copies of forms under Section 9(f) and (g) of the Taft-Hartley Act that had been filed for previous years by Local 174, Joint Council

303 28, or the Western Conference of Teamsters? A. To the best of my recollection we had.

MR. HITZ: Was your date January 7th in that question?

THE COURT: No, --

THE WITNESS: January 16th.

THE COURT: -- the 16th.

MR. PICKENS: January 16th.

BY MR. PICKENS:

Q I would like to read your testimony in United States vs. Brewster, Criminal No. 289-57, Page 142, and see if this refreshes your recollection.

* * * * *

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II

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JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

FILED 1957
Clerk

No. 14,117

NUGENT La POMA,

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Volume 2 of 2 vols.

Pages 253 to 479

UNITED STATES COURT OF APPEALS

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JOINT APPENDIX

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304 "Q. To your knowledge was the Subcommittee prior to the calling of Mr. Brewster in January of 1957 acquainted with the requirements of the financial and other reports that were required to be made by the Labor Management Relations Act of 1957 by labor organizations to the Department of Labor?

A. Yes, we were.

Q. To your knowledge was the Subcommittee aware that there must be divulged certain information in those reports concerning receipts and disbursements of union funds?

A. Yes, we were.

Q. As a general matter?

A. Yes."

At the top of 142:

"Q At that time -- or at the time that Mr. Brewster was subpoenaed" -- which would be December 15, 1956 -- "to your knowledge did the Subcommittee have information with respect to whether or not

305 there had been accurate and truthful reports made by any organization that Mr. Brewster was an officer of --

A. We had information indicating that the reports that had been filed with the Department of Labor were not accurate.

Q. Had the Subcommittee obtained copies of any of the reports that had been filed with the Labor Department which had been signed by Frank Brewster as an officer of any one of the labor organizations comprised in the Teamsters Union?

A We had

Q Had you received several of such reports signed by Mr Brewster?

Q. Did he and others purporting to be officials of those unions or union organizations sign?

A. They did.

Q. At least their names appeared?

A. Yes, sir."

Now, do you wish to change your testimony in the Brewster case? A. No, it is all right.

306 Q. You testified in the Brewster case that you had these forms. A. Well, we did have the forms.

THE COURT: He just said that a few minutes ago.

MR. PICKENS: He just said --

THE COURT: He had the information and the forms before January 16th, which was the date you fixed in your question to him now. Am I right?

THE WITNESS: That is right.

THE COURT: I am listening, too, you know.

MR. PICKENS: I ask your Honor now to look at Government's Exhibit No. 8, and I will show Mr. Kennedy a copy, on Page 196.

(Thereupon Mr. Pickens submitted a document to the witness.)

THE COURT: Now, what do you want to direct his attention to?

MR. PICKENS: I want to direct --

THE COURT: I have 196.

MR. PICKENS: 196. I want to direct his attention to the fact that on January 19th, 1957, --

THE COURT: I see nothing on Page 196 --

MR. PICKENS: All right. The first full paragraph, your Honor.

307 The Chairman says:

"The first thing the Chair wishes to do is to insert in the record at this point a letter received this morning from Mr. Kenneth C. McGuiness, General Counsel of the National Labor Relations Board, in response to a letter written by the committee and to the Secretary of Labor on January 8, 1957, requesting certain infor-

mation regarding a number of labor organizations including the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Joint Council 42, Los Angeles, Calif., and also the Western Conference of Teamsters, Seattle, Wash.

"The letter will be printed in the record at this point and the documents submitted along with the record, photostatic copies of official documents now on file with the National Labor Relations Board and the Department of Labor -- all the documents submitted with the letter will be made exhibit No. 22 for reference."

BY MR. PICKENS:

Q. Now, I direct your attention that in the body of the letter that Mr. McGuiness says:

"Dear Senator McClellan:

308 "Your letter of January 8, 1957, addressed to Boyd Leedom, Chairman, National Labor Relations Board, requested certain documents and information pertaining to the compliance status of named union organizations.

"Of those organizations named we find that the following have no compliance documents on file with us:"

And as you go down the list you see the second one is the Western Conference of Teamsters. You go on down the list and you see Joint Council No. 28, Promotional League, Washington, D.C. -- Seattle, Washington.

MR HITZ: Wait a minute. I don't see that.

THE COURT: Yes, it is there. Joint Council No. 28, --

MR HITZ: I can't help it; I don't see it. Where is it?

THE COURT: -- Seattle, Washington.

MR HITZ: I don't see it.

THE COURT: Well, it's there.

(Thereupon counsel conferred.)

MR. HITZ: All right.

BY MR. PICKENS:

Q. Then going on down:

"For the following organizations we attach hereto the documents requested, viz, NLRB forms 1080 and

309 1085 which were current as of December 31, 1955:"

And the first one is the International Brotherhood of Teamsters. The second one is Joint Council No. 28, and --

THE COURT: The fourth is Local 174.

MR. PICKENS: 174.

THE COURT: So what do you want to ask the witness?

MR. PICKENS: So I want to ask Mr. Kennedy if that doesn't refresh his recollection that he didn't have any of these labor forms prior to January 19th, 1957.

THE WITNESS: It refreshes my recollection that we did.

BY MR. PICKENS:

Q. All right. I wish you would explain that. A. To the best of my recollection, and it might have been earlier than January 7th, but on January 7th when we had the conference with Mr. Leedom I believe I was there with Mr. Adlerman and Mr. Bellino. I believe I was there with two staff members and we discussed these matters generally.

At that time we indicated that we were interested in these various forms. And we -- he assigned or gave us the people that were in charge of those forms to review them. I stayed for a short time and then left.

I believe they reviewed them then and reviewed them later.

310 THE COURT: You mean, Mr. Bellino and --

THE WITNESS: Mr. Bellino and Mr. Adlerman.

Now, on this -- we were going into these hearings and it was a question of showing that the Western Conference of Teamsters did not file and some of these other unions did not file, such as the Joint

Council 28 Building Fund, and some of these others.

It wasn't sufficient for me to make a statement that they do not file. We wanted something in writing from the Secretary of Labor. So I requested that they furnish a letter to the Committee, stating those unions that did file and those unions that did not, and maybe at that time they furnished us officially with the documents of Local 174 and Joint Council 28.

BY MR. PICKENS:

Q. Well, let me ask you this:

At least you didn't have these or did you have some of these forms prior to December 15, 1956, when you talked to Mr. --

THE COURT: December?

BY MR. PICKENS:

Q December 15, 1956, when you talked to Mr. Brewster and Mr. LaPoma? A. There wouldn't be any reason to get them until after we had found out the basic information.

311 Q. I am asking you if you had them. A. No, we did not.

Q. Now, the first time that you talked to Assistant Commissioner Winkle of the Internal Revenue Service and the General Counsel, I believe, Barnes, was the 12, I believe -- no, the 10th of January.

Do you recall that? A. You mean the first time I talked to them?

THE COURT: Talked with them or they testified?

MR. PICKENS: No, the first time he talked with them.

THE COURT: The first time you talked with them.

THE WITNESS: Well, if the record shows that, that is fine.

BY MR. PICKENS:

Q. Well, you recall talking with them around -- A. I do. I know Mr. Adlerman talked to him earlier but I talked to him, I believe, -- Mr. Adlerman had been in touch with him frequently.

Q Now, who else was at the conference? A. Well, I think he had somebody else with him and I think Mr. Adlerman was there with me.

Q. Was Mr. Swartz and Mr. Barnes there? Do you recall?

A. That is fine. I think there were three of them there, I don't know.

312 Q. What did you discuss with Mr. Winkle and Mr. Barnes at this -- well, we will say the first meeting, sometime around -- A. We discussed the fact that labor unions are tax exempt; the forms that they file; whether the Internal Revenue Department makes any investigation or study of those forms.

They said -- as I have testified to before, they said that because of the fact that --

THE COURT: You don't have to repeat that --

THE WITNESS: Well, I --

THE COURT: -- unless you want it, Mr. Pickens. He has told us on direct examination by Mr. Hitz and , to the best of my recollection, on your own examination on cross.

Now, do we have to have it, if I am right about it --

MR. PICKENS: I don't think I have asked him about Mr. Winkle. I could be wrong.

THE COURT: Well, maybe you are right and I am wrong,

MR. PICKENS: I will ask him one or two more specific questions.

BY MR. PICKENS:

Q. Did you ask Mr. Winkle on the 10th of January to testify at

313 these hearings that were coming up? Do you recall? A. I don't believe I did, but I might have. I am not sure.

Q. Did you tell him about this investigation that you had underway? A. Yes, we discussed that.

Q. Did you tell him that you were having jurisdictional problems; that your jurisdiction was being raised? A. Well, I might have said that.

Q. What is your best recollection? A. My best recollection is that we discussed it.

Q. That you told him that the Teamsters had challenged your jurisdiction? A. My best recollection is that I did say that.

Q. Now, then on the 12th of January 1957, I believe you had another meeting with -- Senatory McClellan had a meeting with Secretary Mitchell.

Were you there? A. Yes.

Q. And what was the substance of the conversation at that meeting?
A. Once again, the subject of it was the forms that are filed. Basically, the subject was the forms that are filed by -- I think Senator McClellan
314 told Secretary Mitchell what we had been doing; that there was a discussion then about the forms that are filed.

The Secretary then told the Chairman of the Committee and myself that the Labor Department feels that they cannot go behind the forms; that based on some court decisions they have to accept them whether they are accurate or inaccurate.

Q. Let me ask you -- A. He then went into the question of whether some of the intermediate organizations file or don't file, and he said there is confusion in the law and that, again, the way it is handled now it is not the way --

THE COURT: Now, Mr. Kennedy, are you talking about Mr. Mitchell's testimony before --

THE WITNESS: No. His statement.

THE COURT: Yes.

THE WITNESS: About the same as his testimony before the Committee.

BY MR. PICKENS:

Q. Did you or Senator McClellan tell Secretary Mitchell at that time that your jurisdiction had been challenged by the Teamsters?
A. Well, I think that we must have said that. I know that it was something that I was aware of and the Chairman was aware of, and if we were discussing the subject matter I am sure that we mentioned that to him.
315 Q. Do you recall what he said in that regard? A. I doubt if we asked for his opinion. I doubt if he would give it. I mean, that was between the Western Conference of Teamsters and the Committee - not between ~~the~~ Secretary of Labor --

Q. Now, on the -- I believe it was on or about the 15th Senator McClellan met with Judge Leedom of the National Labor Relations Board, which is the second meeting.

Were you there? A. Yes.

Q. Did you or Senator -- who else was there beside you? A. Well, I think Mr. Adlerman might have been there, and I think he probably had somebody with him, Mr. Leedom.

Q. Did Judge Leedom have somebody with him? A. That is what I think.

Q. Do you recall whether or not you or Senator McClellan told Judge Leedom that you were having -- that the Teamsters had questioned your jurisdiction in this investigation? A. Well, again, I think that the same answer as I gave the Secretary Mitchell -- I am sure that in the course of our conversation, when we discussed these forms, these labor forms that had been filed with the Department of Labor

316 and what the Chairman of the NLRB felt that they could do about them -- I am sure that in the course of the conversation there was some discussion about the fact that the Teamsters were challenging the jurisdiction.

Q. Was Judge Leedom asked to appear and testify at the hearing on that date? Do you recall?

Was he asked, in other words, on the 15th to come and testify on the 16th? A. Did he come on the 15th to --

Q. Well, I believe the meeting with Judge Leedom was on the 15th. A. Was it? Well, I don't know whether I called him earlier or told him at that time. I think I called him earlier but maybe you can find out from him.

Q. Now, on the 15th you also had -- Senator McClellan had a meeting with Assistant Commissioner Winkle and Chief Counsel Barnes, did he not? A. You have the date? I don't have the date. We had a meeting.

Q. Were you at that meeting? A. Yes.

Q. Now, I think I referred yesterday to an article in this week's "Look" and you said that you had read it, I believe. A. Yes.

317 Q. Had you discussed it with Mr. Mollenhoff prior to the time --

THE COURT: Now, tell me, please, sir, why I should hear about that

MR PICKENS: Well, I want to ask him some statements or about some statements that appear in that article that are attributed to him.

THE COURT: Well, ask him about it.

MR. PICKENS: All right, sir.

BY MR. PICKENS:

Q. Now, in that article you allegedly called vice-president Einar Mohn of the Teamsters International on November 26th, 1956, and told him that you wanted his cooperation to investigate three of the vice-presidents of the International organization; that Beck was not involved, but that Brewster was.

Do you recall any such conversation with Mr. Mohn? A. No.

Q. You never called him on that -- A. Yes, I called him.

MR. HITZ: Where do you find that in the article, Mr. Pickens?

MR. PICKENS: That is on Page 14.

THE COURT: Well, --

THE WITNESS: I --

318 THE COURT: Well, now, just a moment, Mr. Kennedy.

Tell me again what is the relevancy of this inquiry?

MR. PICKENS: Well, your Honor, --

THE COURT: What do you propose to prove by it?

MR. PICKENS: Well, this article and other --

THE COURT: Have in mind, which I am sure you do, that fundamentally and at the outset I am not a bit interested in what somebody wrote in apiece in a newspaper or a magazine.

Now, if you want to prove that Mr. Kennedy is alleged to have said something in the magazine piece contrary to what he is now testifying to here, and which is material, then, of course, I would receive it, but beyond that I just can't see how this can be material.

I am trying awfully hard to keep this case on an even keel and the testimony relevant to the issues. I am having a little difficulty or I think I am, in doing so. Now, if I am wrong tell me why I am.

MR PICKENS: Well, let me ask another question.

BY MR. PICKENS:

Q. Isn't it true, Mr. Kennedy, that on or about November 26th that your real reason in going to the West Coast and investigating the situation in Seattle was to unhorse Frank Brewster; that you had obtained

319 certain information --

THE COURT: Don't answer that.

It does not matter, Mr. Pickens, why he went to the West Coast, what his purpose was. I said yesterday and I repeat again now, that it doesn't matter what the original scope even of this Committee was and why Mr. Kennedy and his staff went wherever they went to investigate whatever they investigated.

The question comes down to a simple one: Did whatever they turned up have relevancy and reference to the issues in this case, which I say again I think are simple. The solution to the issues, I also say again, may not be.

Now, I don't care why he went to the West Coast. What difference can that make why he went there; what was his purpose; what did he intend to investigate.

We know already, for example, that he started out with an investigation, according to the evidence before me here, of the textile workers which ultimately led him into the Teamsters. Now, whether that was by just plain stumbling over something or logical sequence of events, I don't know and I don't care.

Did they finally get down to something that they were entitled to inquire about? Now, that is the issue here.

MR PICKENS: Well, the issue here, as we see it, your Honor, or as I see it, is what was the question under inquiry.

320 THE COURT: At the time Mr. LaPoma testified, Mr. Pickens, and not originally. For instance, what, in the minds of Mr. Kennedy and the Committee, did Mr. LaPoma, of whom I suppose at that time they had never even heard, have to do with the textile workers and the International Lady Garment Workers Union? I suppose the answer is "nothing"

MR PICKENS: Well, --

THE COURT: But in the course of time and events, as they were produced and came to the knowledge of the Committee, they decided that maybe Mr. LaPoma did have something of interest to the Committee which was within its scope and that is what I have got to decide.

Now, what his purpose was in going to the West Coast is just to me obviously not material or relevant Now, again, I want to be as patient as I can. I invite you to tell me why I am wrong.

MR. PICKENS: Well, the issue in this case is what was the question under inquiry.

THE COURT: Yes.

MR PICKENS: And we say --

THE COURT: At the time Mr. LaPoma testified.

MR. PICKENS: At that series of hearings --

THE COURT: Yes.

MR PICKENS: -- the 16th through the 19th.

321 THE COURT: Right.

MR PICKENS: And they asked questions of other witnesses about law enforcement in Portland, Oregon, about vice, about prostitution, about all these other myriad things that I believe the Supreme Court has said in several cases indicates what the true purpose of the investigation was and what the question under inquiry was --

THE COURT: Not in my opinion. Not in my opinion. I said this yesterday and I say it again today, and I hope I don't have to say it a third time sometime later today or tomorrow or whenever.

I said and I now say: This Committee could have gone off the reservation in a dozen different directions. They could have been pursuing all kinds of things, but if they happened -- just happened even possibly unintentionally -- just happened upon some legitimate inquiry which involved Mr LaPoma that is all they needed.

It is the business, in a manner of speaking, of separating the wheat from the chaff and there may have been a lot of chaff. All I want to know is was there any wheat. If there was, LaPoma is properly on trial here If there wasn't, he isn't, but --

MR. PICKENS: Let me say --

THE COURT: --but as I said before, I don't want to hear any more about prostitution. I don't want to hear anything about prostitution in
322 Seattle or Portland or wherever the heck it was, and I don't want to hear anything more about pinball machines.

I want to know whether this Committee properly interrogated, and had a right to do so, LaPoma within some phase of the scope of their authorization, and that is all I want to know about.

MR. PICKENS: Well, let me make one illustration that your Honor made yesterday: Whether they could investigate the Sioux Tribe of Indians, we will say, --

THE COURT: Yes.

MR. PICKENS: -- or Custer's Last Stand, --

THE COURT: And I wasn't being, by the way, facetious.

MR. PICKENS: No, I realize that and I am not being facetious now either.

THE COURT: No, I know you are not.

MR. PICKENS: If they went out and investigated that, perhaps they had authority and perhaps they didn't. Now, that might not have anything to do with this --

THE COURT: Well, let's assume that they did not have the authority to investigate the Custer massacre.

MR. PICKENS: All right, sir. Sir, on the 16th of January they have this series of hearings which later they put under this self-serving title, "Violation or Nonenforcement of Federal Acts".

323 THE COURT: And the title means nothing to me, I also say.

MR. PICKENS: I appreciate that.

THE COURT: So go ahead from there.

MR. PICKENS: So on the 16th, along with LaPoma and Brewster, and a few Teamsters, they bring in the Chief Little Horn or Little Big Horn and several other indians to testify.

THE COURT: He wasn't the chief. That is where it happened.

MR. PICKENS: Or Sitting Bull or Crazy Horse.

THE COURT: Sitting Bull is a --

MR. PICKENS: Well, Crazy Horse.

THE COURT: Well, now, all right. I will accept either one of those.

MR. PICKENS: Well, anyway, they bring in the survivors, we will say, --

THE COURT: Yes.

MR. PICKENS: -- and they bring in seven of those survivors and they testify about Custer's last stand and they testify about the hardships in the Sioux Tribe of Indians, and it is still within this same series of hearings. They mix these witnesses up.

THE COURT: Yes.

324 MR PICKENS: Now, I say that we are entitled to see what questions they asked those Sioux Indians to see if they bear on what they claim the purpose of that series of hearings was.

THE COURT: That is where you and I part, and I think we are permanently divorced.

MR PICKENS: On just that one issue?

THE COURT: Well, up to now. What comes, again I don't know.

MR PICKENS: Well, perhaps, your Honor, during my part of the case I can effect a reconcilliation.

THE COURT: Well, maybe you can. But as of now you and I are just really divorced. Now, if I have obfuscated my thinking you tell me so, because I want to try to make it clear now.

In the interest of time, and your time as well as mine, it doesn't make any sense if you keep asking questions and I keep overruling them with Mr. Hitz sitting there quietly and letting me do his work for him. He ought to stop me.

MR HITZ: We are very happy with the situation, your Honor.

THE COURT: What?

MR HITZ: We are very pleased with the situation.

THE COURT: I know you are but you ought not to let me do it. You ought to do it yourself.

325 MR. PICKENS: Well, your Honor, I don't mean to be contentious, so just to preserve the defendant's rights let me ask two or three questions, and you can rule on them and get right to the heart of it and I will try not to get anywhere near it hereafter.

THE COURT: Go ahead.

BY MR. PICKENS:

Q. Isn't it true, Mr. Kennedy, that during the hearings on the 17th and 18th --

THE COURT: Of?

BY MR. PICKENS:

Q. -- January, 1957, that James B. Elkins, of Portland, Oregon, was called to testify; Elkins, who was a well known gambler and racketeer.

He testified about the alleged connections between the Teamsters Unions on the West Coast and the rackets and vice and prostitution and other matters in and around the Portland area?

THE COURT: Don't answer that.

BY MR. PICKENS:

Q. Now, isn't it true, Mr. Kennedy, that on the 17th or the 18th two newspapermen were called, Mr. Lambert and Mr. Turner of the Portland "Oregonian", and testified or you elicited testimony from them concerning alleged attempts of the Teamster Unions on the West Coast, the Western Conference and others, to take over control

326 of law enforcement in the State of Oregon?

THE COURT: Don't answer that.

MR. PICKENS: I have one more.

BY MR. PICKENS:

Q. Isn't it true, Mr. Kennedy, that on the 17th or 18th you called Stanley W. Earl, the City Commissioner of the City of Portland and he also testified concerning the alleged attempts of the Teamster Union to take over law enforcement in the State of Oregon?

THE COURT: Don't answer that.

BY MR. PICKENS:

Q. Now, isn't it true, Mr. Kennedy, -- and this appears, your Honor, on Page 195 of Government's No. 8 -- that just prior to the time that Mr. Brewster and Mr. LaPoma testified, the Chairman in his statement or the first paragraph of his statement on the 19th of January stated as follows:

"The Chair wishes to announce as we resume public hearings that in the interim since yesterday at noon when we recessed, the committee has heard a number of witnesses in executive session, witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry and testimony that
327 indicates conditions prevail that are of interest to the Congress in its investigation of Government operations with respect to its efficiency and economy."

Do you recall a statement along those lines?

A Yes, I do.

Q. And is it your recollection that the Chairman was referring to the testimony of Elkins, Lambert, Turner, Earl. -- A. I think the statement speaks for itself.

Q. Well, who was the Chairman speaking about? Who had you had in executive session? A. I think he was speaking chiefly about Mr. James Elkins.

THE COURT: He refers to a number of witnesses.

THE WITNESS: Yes. I say the statement would have to speak for itself. If you wanted to know what my view is I think he was --

THE COURT: You see, you are asking Mr. Kennedy to give his opinion or his guess, which is even worse, as to who Senator McClellan had in mind when he made this statement.

MR. PICKENS: All right. Well, let me ask it this way, your Honor.

THE COURT: As the witness says, the statement speaks for itself

328 BY MR. PICKENS:

Q. Between noon on January 18th and the convening of this hearing on January 19th at 10:20 a.m. who appeared before the Subcommittee in executive session? A. Now, you must have the record or somebody has the record. I don't know.

THE COURT: Well, you don't remember?

THE WITNESS: I don't remember.

THE COURT: All right. That is your answer.

BY MR. PICKENS:

Q. Well, could you supply that information to us?

THE COURT: No. You have got it right here in Government's Exhibit No. 8.

MR. PICKENS: It is not in Government's Exhibit No. 8, your Honor, because they didn't have it printed. The testimony of these witnesses are not in here.

THE WITNESS: If you can refresh my recollection on it, then I will --

THE COURT: All right. Can you do that?

MR. PICKENS: Yes, I can.

THE COURT: All right. Tell him who testified and then he will either agree --

THE WITNESS: Did all these people from Portland testify?

THE COURT: -- or he won't.

329 BY MR. PICKENS:

Q. Well, James B. Elkins, this gambler that we are talking about; Lambert and Turner, these two newspapermen from the Portland "Oregonian"; Stanley Earl, this City Commissioner of Portland; there was Leo Plotkin, this runner that you spoke of.

There was Geraldine Taylor from New York, and there was Helen Hardy, who had run a house of ill-repute in Portland at sometime or another.

Does that refresh your recollection?

A. Yes. Yes.

THE COURT: And they probably were the witnesses?

THE WITNESS: Yes, I would think --

THE COURT: Who testified from noon the previous day --

THE WITNESS: I would think they were.

BY MR. PICKENS:

Q. Were there any other witnesses that you recall? A. No. I don't -- I just didn't know what day it was and if that is the day --

THE COURT: All right. Well, we know now. Now what is your question?

MR. PICKENS: Well, he has answered were these the witnesses that testified in executive session between noon on January 18th --

330 THE COURT: He said yes.

MR. PICKENS: All right, sir. Thank you, your Honor.

BY MR. PICKENS:

Q. Now, I believe that you said that Sam Berger was going to testify the coming week. You meant before the Senate Select Committee, did you not? A. Yes.

Q. Sam Berger has never testified in open session before the Government Operations Committee? A. No, he has not.

Q. And has the Government Operations Committee or the Permanent Subcommittee held any hearings in connection with this investigation on January 16th and these hearings on January 16th to 19th, of 1957, -- have they held any further hearings? A. The Senate turned all this over to the Select Committee and the Select Committee took on the investigation. Those hearings have been held by the --

THE COURT: Now, when you refer to the "Select Committee" what do you mean?

THE WITNESS: The Senate Select Committee on Improper Activities in the Labor - Management Field.

THE COURT: Is that Committee the result of Senator Ives' resolution?

331 THE WITNESS: His resolution and Senator McClellan's resolution and they created -- the Senate created, I believe, on the 31st of January a joint committee made up of Senator McClellan's Committee and of the Labor Committee, Senator Ives' Committee.

THE COURT: Which together form this Select Committee --

THE WITNESS: That is correct.

THE COURT: -- for the purpose you mentioned?

THE WITNESS: That is right.

MR. PICKENS: If I get off of the reservation on this next question, you Honor, I don't mean to, because I think it is within your Honor's ruling and I am not trying to get around it.

BY MR. PICKENS:

Q. But in your discussions with Senator McClellan and with the Committee, which I believe was on January 10, 1957, you delineated three areas in which the Committee -- in which you thought the Committee had jurisdiction, three areas concerning jurisdiction;

One where you were fairly certain they had jurisdiction; one which was borderline, and one which was beyond their jurisdiction.

Now, yesterday afternoon I asked you about some of the areas and I want to ask you in connection with that if you discussed the

332 jurisdictional aspects with the full Committee, with Chairman McClellan or any members, insofar as they related to your investigation of political contributions in the States of Oregon and Washington, and other states on the West Coast? A. I don't remember ever discussing it.

333 Q. You don't remember in which one of those three areas you put that? A. I don't remember ever even discussing political contribution

Q Do you remember discussing the jurisdiction of that part of your investigation which had gone into the alleged attempt of the Teamsters to take over law enforcement in the State of Oregon?

THE COURT: Don't answer that.

MR. HITZ: I am sorry, I wonder if I could hear that question?

THE COURT: Yes. Read it, Mr. Doran or Mrs. Watson, whichever one of you took it.

(Whereupon the pending question was read by the reporter.)

THE COURT: Do you want the witness to answer that, Mr. Hitz?

MR. HITZ: Yes, I do.

My silence doesn't mean that I am not participating in the trial. I am trying to keep it, too, within limits. I have certain things in mind.

At this time, I think that question, perhaps for the safety of the record, should be answered, for the reason -- and I should explain myself --

THE COURT: I think you should.

334 MR. HITZ: -- because I am definitely at variance for the moment with Your Honor's view of this.

We can show that those activities, like pinballs, and other things, which sound like they would be strictly local, involved the misuse and the funneling of union funds into activities; and if that is true, it would fall within the likely purview of this Committee, although the Committee didn't pursue it.

THE COURT: Well -- Go ahead.

MR. HITZ: I think that to exclude it might possibly cause some sort of a problem.

Now, the reason why it would come within the likely jurisdiction of the Committee is that it would be a misuse of funds undisclosed to the Labor Department or to the Internal Revenue.

THE COURT: Well, if you are right -- you and Mr. Pickens, for different reasons, take the same view -- if you are right and I am wrong, then the lid is off and Pandora's box is really ready to open up --

MR. HITZ: I quite agree.

THE COURT: -- all over the place.

MR. HITZ: I am trying to conform to what are not only the holdings of the Watkins case, but to some of the possible ramifications

THE COURT: Well, possibly I misread the Watkins case

335 I don't think so; but maybe so.

I suppose since I have nowhere else to go but here, I might as well open up the whole thing and let you ask whatever you want.

MR. HITZ: I haven't quite finished stating my position.

THE COURT: Go ahead.

MR. HITZ: That we are able to show that there is likely and perhaps definite jurisdiction in the field of those particular persons that were called prostitutes, or whatever, out there, because they were the ones who were benefiting one way or another from the misuse of union funds.

If that be true, then we can establish -- and if we can, we may as well do so -- that there was jurisdiction for that field, even though the Chairman, out of an abundance of caution, continued to hold their testimony in Executive Session only.

If Mr. Pickens is attempting to build a record of that sort, I would like to join in with him only to the extent of making him fully able to establish the offers of proof.

We have got answers to some of this. I had an idea putting the answer in --

THE COURT: We will be here until August 15 answering him, too.

Here is my view in capsule form of this matter: We

336 began with the question, of course, of whether the Committee had jurisdiction to inquire of Mr. LaPoma and to ask him to produce his books.

Now, Mr. Kennedy has testified, and Exhibit 8, I think it is --

MR. HITZ: The hearings are 8.

THE COURT: -- or maybe Government's 1, one or the other, 8, I guess -- anyway, in whatever exhibit it may be found, Mr. Kennedy has testified that he talked with Secretary Mitchell, with Mr. Leedom, the Chairman of the National Labor Relations Board, and with Mr. Winkle of the Internal Revenue Service, at least two of whom testified, Mr. Mitchell and Mr. Leedom.

Did Mr. Winkle testify?

THE WITNESS: Yes. Yes, Your Honor.

THE COURT: All right. All three of them testified before the Committee concerning their respective problems with respect to compliance and statements, and so on, of labor organizations.

Now, that either lays a ground work and forms, as a matter of fact, the basis for the Committee's jurisdiction or it doesn't.

Now, it seems to me that it is not necessary to prove, as we would in a trial, say, of a criminal case where other than the one we have, whether or not Mrs. Whosis ran a house of prostitution, in fact, in Portland, or Seattle, or wherever it was; whether or not the

337 Teamsters devoted their funds to the operation of barrooms, pinball machines, or whatever. Why do we have to prove that that was in fact so?

All it seems to me that this court needs to know is that the reports of labor unions, their statements both to the Labor Department and the connection therewith of the National Labor Relations Board, and their informational statements, I think it has been termed, to the Internal Revenue Service gave either one of those three Government agencies a problem which, according to the testimony of Mr. Kennedy, and according to the testimony before the Committee of Mr. Mitchell and Mr. Leedom and Mr. Winkle, did give them a problem, and because of that problem, the Committee thought -- though it had gone into many other ramifications of this and other fields -- they had jurisdiction to inquire into whether or not these statements, specifically in this case of Local 174 in Seattle were truthful; and if not, or whether they were or not, maybe, the law should be amended.

Now, I think I am not concerned with what the Senate later did. I have said this before either in this way or in substance at least this way.

I am not concerned, as I see it -- either of you can tell me if I am wrong about it -- with the fact that the Senate later decided that they had better clear up this question of jurisdiction by forming a select

338 committee, composed, as Mr. Kennedy has told us, of Senator McClellan's Committee, and some --

THE WITNESS: The Labor Committee.

THE COURT: -- the Labor Committee. A joint committee, which became a select committee of the Senate.

That doesn't have anything to do with whether the Subcommittee on Permanent Investigation of the --

THE WITNESS: Government Operations Committee.

THE COURT: -- Government Operations Committee had jurisdiction, even though they may have doubted it in the first place.

I must decide whether they had it or not, even though they may have doubts about it.

To argue to me that you repair, as a physical condition -- and nothing is better known than the law of torts, for instance, that it is not admissible to show that a man, because he is afraid of a given physical condition repaired it later on. That is not admissible to show that it was negligently maintained in the first place, when maybe somebody fell down a step or tripped, or whatever.

Now, maybe I have talked overlong and maybe I have not made myself clear, but that is the best I can do with it.

Now, what is wrong with this thinking? First, you tell me, because you agree, for different reasons, with Mr. Pickens

339 that I ought to hear all about this.

MR. HITZ: The basis for determining in this case what the question under inquiry is is the statement of the Chairman. There is no question about that.

THE COURT: Improved, if it is, by the testimony of Secretary Mitchell, Mr. Leedom and Mr. Winkle.

Isn't it?

MR. HITZ: Well, slightly imporved, quite right. But even if they hadn't testified, I think that the reasoning of the Chairman would prevail

THE COURT: All right, then that is so.

MR. HITZ: We arrive at the reasoning of the Chairman by what the Chairman said.

On the 7th of January, the Chairman introduced a bill to expand authority.

At a subsequent time, the Chairman stated that there were three areas of investigation, one within, one on the edge, and one without the Government Operations authority.

We contend, without any doubt -- we think that it is not even susceptible to argument, although we are going to hear argument, I am afraid -- that this particular investigation conducted against this particular witness was with authority of this Committee.

The Chairman, however, in several instances, said that there were those three areas. The persons who testified during the
340 interim were those persons engaged in prostitution and other things ostensibly in Portland and elsewhere.

The Chairman's statement, on Page 195, brings those persons into the purview of Committee authority.

He said that certain persons testified. We have had them identified. He said those persons were pertinent in their testimony to the Government operations, governmental function of this Committee.

Whether he is right or wrong on that is a matter that I think is worth exploring. Only for this reason: That Mr. Pickens is attempting to find out where is the borderline area, where is the excludable area. Mr. Pickens contends that this is an excludable area. The Chairman says it is not.

If there is an effort made here to jumble the whole mess up together, the excludable, the borderline and the proper jurisdictional area, we might run into a situation where there would be a dispute as to what is the matter under inquiry.

If we can show that there is a governmental interest for this particular Committee because of the misuse of funds going to the local operation of law enforcement and of prosecution, we would still have a justification for what the Senator said.

341 I am trying to try this case in view of the utterances of the Senator. I depend on some; and I am prepared to justify this one.

THE COURT: But it seems to me that you don't have to prove that this local did, in fact, misuse its funds. It seems to me all you have to prove, if you can do it, is that the Committee had a right to find out whether it did or not, namely, by inquiring of him and by the production of his books, which they would examine and tie in, if they could, to whatever other activities the Committee was aware of.

I am just most reluctant to try these individual cases, and I don't see why I should, to determine the truth or falsity of whether Local 174's money was diverted to illegal, non-union use, whether there was misfeasance or malfeasance in the performance of the duties of the officers of that local.

I cannot see it.

MR. HITZ: Well, I wonder if I could further be heard on that?

THE COURT: Yes; you had better be.

MR. HITZ: Mr. Pickens has the testimony in Executive Session of these so-called local racketeers, and others. He is going to be able to establish a record here that those persons testified in this interim period.

342 As to those persons, the Chairman says there is authority.

Mr. Pickens is going to assert that there was no authority. Mr. Pickens is then going to try to assert that the Government is taking the Chairman's statement at its full value whenever it is favorable to the jurisdiction of the Committee, and that where it is not favorable to the jurisdiction of the Committee, the Government is willing to abandon the Chairman's statement.

When we can justify the Chairman's statement here that even these local prostitution and law enforcement activities have a governmental function, I think it is the burden of the Government to justify that statement of the Chairman, and not leave it dangling as it will otherwise be dangling.

I am doing it for the safety of the record. I am not interested in prostitution in Portland.

THE COURT: I know you are not.

I suppose, Mr. Pickens, you will accept Mr. Hitz's argument on your behalf?

MR. PICKENS: In part, Your Honor.

Of course, we say because they jumbled this all together, that that is how the investigation started out, that is, in essence, what it was.

After they found out that the Teamsters challenged the jurisdiction, the last four or five days before the hearings, they are running around all over Washington in an attempt to surround themselves with an aroma of jurisdiction, and they used the trappings of these tax forms and these labor forms with which to attempt to accomplish it.

343

THE COURT: So you think -- I suppose I could put it bluntly but still accurately -- that you just don't have any limitation on you; do you?

MR. PICKENS: No; and I take my lesson from the Chairman's statement.

THE COURT: I don't know whether I am going to take mine from it or not.

Of course, I don't want this case, if I am in error, to be tried again, whatever decision I may come to in the thing. But on the other hand, I am very much afraid that if I accede to the request of each of you, I am going to be wasting time in this courtroom. But I could be wrong about it.

I will take a few minutes out now.

(Whereupon a short recess was taken.)

THE COURT: Now, gentlemen, is there any more you want to say on this subject?

MR. HITZ: I have nothing further, Your Honor.

MR. PICKENS: I have nothing further.

THE COURT: Well, I thought about it in chambers; and I am of the opinion, as I was before, that I must restrict this case.

344 I will not go into the evidence concerning the truth or falsity of the allegations that union funds were misapplied in Seattle, and whether there was misfeasance or malfeasance on the part of the officers of the local and of the Western Conference and of Joint Council 28 -- was it?

MR. PICKENS: Right.

THE COURT: I think that the question resolves itself into this: Did the Committee have jurisdiction, based upon the Chairman's opinion of his Committee's jurisdiction, and based upon the testimony of specifically three witnesses, Secretary Mitchell, Mr. Leedom and Mr. Winkle, to inquire of Mr. LaPoma and to compel him to produce his books in order to find out whether or not his union had diverted funds for non-union purposes to the extent, if at all, that the operations of the Labor Department, the National Labor Relations Board and the Internal Revenue Service were affected, and to determine whether new or amendatory legislation was required or deemed advisable.

I will, therefore, restrict the testimony to such an issue.

MR. PICKENS: May I just say one thing, Your Honor?

THE COURT: Yes.

MR. PICKENS: I wasn't trying to go into the truth or

345 falsity of whether or not there had been a misuse of funds.

I think Your Honor understands that my argument was that once they undertake a labor racketeering investigation, and go along with that, and then at the end come up with what we say was some attempt to surround themselves with some areas where they might have jurisdiction, although we don't even concede they had jurisdiction in connection with these forms, when they scramble that egg up and come down to the hearings, it can't be unscrambled to separate the good from the bad.

You can't unscramble an egg and you can't unring a bell; and we think that is the situation here.

THE COURT: I know your position, and I understand it. But I simply will not open this case, the doors to it wide so that anybody can come in and have a grand time.

MR. PICKENS: Well, I appreciate that, Your Honor, and I will certainly stay within your ruling, except that when it comes to my part of the case, I may attempt to put on some testimony.

THE COURT: Yes.

MR. PICKENS: Maybe by that time I can show you it has some relevance, and make an offer of proof, if you exclude it at that time.

THE COURT: Right. You will be permitted, of course,

346 to protect your record, as Mr. Hitz will be, in any fashion you see fit. But I thought it well to tell you what the Court's views are; and I am quite sure I will adhere to them.

MR. PICKENS: I will desist until that time.

I have just one or two other questions to ask Mr. Kennedy.

BY MR. PICKENS:

Q. Mr. Kennedy, at or about the same time that you served this subpoena on Nugent LaPoma, did you also serve or did you have served a similar subpoena on the Seattle First National Bank, calling for all the transcripts, safety deposit records, check stubs, loan records, correspondence files, and all related documents concerning Mr. and Mrs. Nugent LaPoma? A. It is very possible that we did. If the record shows we did, I would admit that we did.

Q. I think the record shows that you did on or about December 21. A. That is fine.

Q. Which would be a week after. A. Yes. Well, then we did.

Q. And that you also called from that bank for all these records of the Western Conference and Local 174? A. Local 174, yes, sir.

347 Q. And the Western Conference? A. Yes, sir.

Q. And Mr. and Mrs. Frank Brewster? A. Yes.

Q I believe Mr. and Mrs Dave Beck also? A. I believe so.

* * * * *

REDIRECT EXAMINATION

BY MR. HITZ:

Q Mr Kennedy, you testified on cross examination that you learned of the Teamsters' challenge to the jurisdiction of the Committee

at or about the time that you served the subpoena on Mr. LaPoma on December 15 in Seattle. A. Yes, sir.

Q. Are you able now to tell us, was it before or after December 15? A. Well, I would believe it was either on December 15, in my conversation with Mr. Bassett, or after December 15.

THE COURT: But in December?

348 THE WITNESS: Yes, sir.

BY MR. HITZ:

Q. This is what I want to get at. In any event, it was after November 6? A. Yes; it definitely was after November 6.

Q. And on November 6 was when you sought from the Labor Department the financial statements filed under the law with respect to those New York unions similarly situated? A. That is correct.

Q. So then, Mr. Kennedy, did your recourse to the financial forms filed by these various hierarchies of the Teamsters union and your investigation of the forms and the practices of the various Government Departments with respect to them, their policies with respect to their duties and authority over those forms, did those activities of your Committee I have just mentioned spring from the protest of the jurisdiction of the Committee by the Teamsters or did it antedate that? A. No; we had gotten into them in early November of 1956, prior to the time I even went to Seattle.

Q. So that those matters were not suggested to you by the protest of the Teamsters of lack of jurisdiction of this Committee? A. No, sir.

349 THE COURT: I don't know that I understand that question, Mr. Hitz.

MR. HITZ: You mean the purpose of it or the actual question?

THE COURT: No, the purpose of it, the meaning of it.

MR. HITZ: Oh. One of the defenses here is that this governmental activity that the Committee related its investigation to and from which it sprang, as a matter of law, although perhaps not in the matter of time, was an after-thought, and that it was dragged in to give an aroma of jurisdiction.

THE COURT: Yes.

MR. HITZ: I am showing here now that -- through the testimony, and I have already shown it -- an investigation of the forms filed with the Labor Department by unions and a check on the fullness and the accuracy and the truthfulness of them, and the duties of the Labor Department with respect to them --

THE COURT: Right.

MR. HITZ: -- their regard of their authority with respect to them, likewise the Labor Relations Board, had nothing to do with this protest of jurisdiction, but sprang from way back there on November 6 when they were investigating --

Tr 350 THE COURT: From the investigation made on the West Coast by Mr. Kennedy and his assistants.

MR. HITZ: No, back in November. On November 6, there was a letter written under Mr. Kennedy's direction, which was one of the matters here that Mr. Pickens used to examine Mr. Kennedy -- it was a yellow sheet of paper -- back there on November 6, with respect to the New York and New Jersey unions.

THE COURT: Yes.

MR. HITZ: Some fourteen or fifteen or twenty of them being Teamster unions, by happenstance, with respect to completing the Committee's investigation of those unions, the Committee sought these forms with respect to those unions.

It shows that the matter of investigating --

THE COURT: They were then aware of the problem.

MR. HITZ: Yes, exactly, and was not an afterthought, and no effort to run around town, as Mr. Pickens says, to cast an aroma of jurisdiction.

THE COURT: I understand.

MR. PICKENS: I can't accept that statement.

THE COURT: I know you don't. All I wanted to get was his position, and the purpose of the question; and I now have it.

MR. HITZ: Thank you. I am glad you asked me.

Tr 351 MR. PICKENS: At this point, I might say, Your Honor -- I don't want to interrupt -- I think that letter, itself shows that the only purpose was to get the information. They weren't actually investigating those forms.

MR. HITZ: Well, in that connection --

THE COURT: You don't have to debate it any more. All I wanted to know was the purpose of the question; and I now know it.

MR. HITZ: Yes.

Well now, I wonder if I could pursue the factual matter a little bit further?

THE COURT: You may.

BY MR. HITZ:

Q. Mr. Kennedy, you have seen those several sheets of yellow paper which were shown to you yesterday? A. Yes.

Q. The top one being a letter from the Committee or the staff of the Committee -- A. From the Chairman.

Q. -- to the Labor Department requesting the forms of the various Teamster union hierarchies that did file? A. Yes, sir.

Q. The letter of request was dated the 6th of November. Did you instruct anybody on your staff to pursue that matter by analyzing and writing up the forms that were received from the Labor

Tr 352 Department? A. I did.

Q. And did you receive a memo on that subject analyzing those reports requested on November 6? A. I did.

Q. Who did you ask to do it? A. Mr. Adlerman.

Q. And when did he do it? A. Within the next day or so.

Q. And under date of November 8, 1956, is there attached to the very letter of request of November 6, and shown to you yesterday, Mr. Adlerman's analysis of the statements made on those forms for those unions? A. Yes, sir.

Q. They are right here in Court today; are they not? A. I believe they are.

Q. Now, you testified on cross examination that Mr. Leedom, Mr. Mitchell and Mr. Winkle, from those Government offices, testified in Executive Session on January 16, and that rather than to have them reappear and give public testimony, that it was decided to release to the public, that is, to make public their Executive testimony.

Do you recall stating that?

Tr 353 MR. PICKENS: That is not my recollection of his testimony.

THE COURT: He is asking the witness if he did so testify.

MR. HITZ: Yes.

THE WITNESS: I thought I did testify to that.

MR. HITZ: I thought he did, too.

MR. PICKENS: I don't want him to use that as a suggestion he did. I don't think that was the reason he said that --

THE COURT: You are speaking of testimony in Court here, are you not?

MR. HITZ: Yes, sir. On cross, yes, sir.

THE WITNESS: My recollection is that I said --

THE COURT: We got it (indicating Transcript of Proceedings).

THE WITNESS: -- said just that.

BY MR. HITZ:

Q. That is your recollection? A. That is right.

Q. Now, I think on that subject, and likewise on the subject of the testimony of those Portland ladies and gentlemen whose testimony was not made public, that you stated that the testimony was, nevertheless, sought in Executive Session so as to inform the Subcommittee of the

Tr 354 testimony and the areas in which that testimony fell, so that that would be further illustration of what was said by you and the Chairman to the members of the Subcommittee on that subject in the conference of January 10.

THE COURT: All you are doing now is retracing your own steps.

MR. HITZ: I am laying the foundation.

THE COURT: That question is not redirect examination. You asked him on direct about that; and he testified to it.

MR. HITZ: This is all foundation for a question that is rebuttal. I concede that I have not yet asked on this subject a rebuttal question. It is all foundation so that I can get to my question.

THE COURT: All right.

MR. PICKENS: I object.

I don't question his sincerity in making the summary, but if he wants to refer to the question, I think that is preferable, because he may be giving a different inference to Mr. Kennedy that was contained in the exact question.

THE COURT: I think you can get to it right now without going aroundabout way to get to it.

Ask him what you think is proper in rebuttal. I am convinced that what you just asked him is not.

MR. HITZ: Yes, sir. I concede that.

Tr 355 THE COURT: All right, now ask him what you think is proper.

BY MR. HITZ:

Q. You stated, Mr. Kennedy, yesterday, that the reason for receiving certain Executive testimony from Government officials and others was to inform the Subcommittee --

MR. PICKENS: What page is that, Mr Hitz, do you recall?

MR. HITZ: It is on Page about 5 of my notes. I don't know where it is in the transcript.

THE COURT: I don't suppose that is going to help you very much, Mr. Pickens.

MR. HITZ: I am not going to look it up unless the Court asks me to.

THE COURT: Go ahead and ask it.

BY MR. HITZ:

Q. Did the Committee, to your knowledge, when it released the testimony that it did release from Executive, that is, the testimony of those Government officials, have any additional purpose other than to inform the Subcommittee, and if so, what was the additional purpose for which the Committee released to public the Executive testimony of the Government officials? A. To inform Congress about the problem

Tr 356 that existed and what the position of the Labor Department and the National Labor Relations Board and the Treasury Department was on that problem.

THE COURT: Well, did it have anything to do in the minds of the Committee, if you know, with information to Mr. LaPoma?

THE WITNESS: Yes.

THE COURT: And Mr. Bassett?

THE WITNESS: Mr. LaPoma and Mr. Bassett were to return and to turn over their documents and records the following day. Ultimately, it was postponed two or three days.

We had information, as I have stated before, developing a misuse of union funds which hadn't been reflected in these reports; and we were going to receive these documents and examine them.

THE COURT: I know.

Mr. Hitz is asking you why, what your purpose was, or what Senator McClellan's purpose was in making public testimony in Executive Session by Mr. --

THE WITNESS: Mitchell.

THE COURT: -- Mitchell, Mr. Leedom, Mr. Winkle, and I think one or two others, and why did you do it?

Now you have explained why you did it.

THE WITNESS: Yes.

Tr 357 THE COURT: I asked an additional question: Whether or not it was for the purpose, or whether you had in mind, or Senator McClellan, if you know, had in mind informing Mr. Bassett and Mr. LaPoma?

THE WITNESS: I think that was certainly part of the reason, Your Honor.

THE COURT: Is that a sort of a second-hand guess?

THE WITNESS: No. I thought at the time, at the time that this was done, that that would serve that purpose.

We knew that it was extremely pertinent to the testimony of Mr. LaPoma and of the others, and that it was going to achieve this result, that either they were going to have to come back and testify in public,

and this was an easier way of doing it, because we would just cover the same ground again.

And it was to inform Congress and to inform anybody that was interested, including Mr. LaPoma, of what these gentlemen had said.

BY MR. HITZ:

Q. Well, Mr. Kennedy, was it released to the public at such a time and in such a fashion that it could be informative to Mr. LaPoma?

A. Well, it was voted to be released at the very time, Mr. Hitz.

Tr 358 As it had been in Executive Session, and these individuals who had testified had not realized it was going to be made public, we allowed them an opportunity to make corrections.

What time it was ultimately released to the press and released publicly, I believe it was the following night, but I am not certain.

THE COURT: Was it within the public domain before Mr. LaPoma, and Mr. Bassett, of course, his lawyer, were recalled, that is to say, the second time?

THE WITNESS: On the Saturday?

THE COURT: Whatever day that was Had the testimony of these officials already been made public before Mr. LaPoma was asked in the public session to produce his books and to make certain information available concerning them, which he refused to do?

THE WITNESS: Your Honor, I believe it was, but I can check that definitely

THE COURT: I think we ought to know I thought we did know.

MR. HITZ: I don't think the record speaks on that subject, Your Honor.

THE COURT: I think we ought to know.

THE WITNESS: I can find out very easily.

THE COURT: Could we do this, to save time?

Tr 359 Could you find out, and could you possibly stipulate whether it was or not?

MR. PICKENS: I know that this Government print wasn't released until about the 15th of March or after

THE WITNESS: But I can explain that.

THE COURT: What is your explanation?

MR. PICKENS: No means of making it public.

THE WITNESS: Yes.

Your Honor, we don't always have -- even in public sessions, we only have this kind of a print (indicating).

THE COURT: Let me cut your statement short, if you will pardon me for doing so.

Do you think you can find out -- you will have to come back here and tell us, that is obvious -- whether the testimony taken in Executive Session of Secretary Mitchell, Mr. Leedom, Mr. Winkle, and whoever else it was, was made public and in a fashion so that it was available to Mr. Bassett and Mr. LaPoma before Mr. LaPoma's second appearance, at which time he was asked the questions in this indictment?

THE WITNESS: Yes, I can. My best recollection is, it was.

THE COURT: Do that, please, at whatever time Mr. Hitz wants to recall you.

MR. HITZ: On that subject, would it be agreeable to

Tr 360 Mr. Pickens if Mr. Kennedy informed me of his information, and possibly we can agree on it; and if not, I will recall Mr. Kennedy for examination on that subject.

THE COURT: Yes.

MR. HITZ: Is that an area in which we might be able to agree?

THE COURT: You might. I don't know. But if you can't agree, then recall Mr. Kennedy.

THE WITNESS: Maybe we can call the Chief Clerk.

THE COURT: Or whoever can tell us, yes.

MR. HITZ: Your Honor, before leaving the subject, however, I would like to point out -- and this is from the record -- that on Page 2 of these hearings --

THE COURT: Exhibit 8?

MR. HITZ: -- which are Government 8, that the Chairman very definitely states, and it, therefore, is known later to LaPoma, because

he gets a copy of this -- he very definitely states:

"Today, the subcommittee will hear officials from the Department of Labor, the National Labor Relations Board, and the Treasury Department. We shall make inquiry of them as to the adequacy of existing statutes and their present rules and regulations to enable them
Tr 361 to administer the law efficiently. Also, we shall inquire whether there should be any modifications or changes in existing law to assist them in determining the adequacy, accuracy, and truthfulness of financial reports and other information required to be supplied by labor unions and labor union officials.

"We want to determine whether agencies of Government are able to and have the authority to ascertain whether such information contained in such labor union registrations, financial reports, and the reports of the labor union officials are accurate, true or false.

"The subcommittee is aware of recent court decisions . . . ." and so forth.

So even though --

THE COURT: Was Mr. LaPoma present when that statement was made?

MR. HITZ: No, he was not. But this was --

THE COURT: The Chairman is announcing what he proposes to hear in Executive Session, isn't he?

MR HITZ: Yes, he is; and why he wants to hear it.

THE COURT: Yes. But Mr LaPoma didn't hear what he
Tr 362 said.

MR. HITZ: Your Honor, I am sorry, I haven't been given an opportunity to finish any one of my statements.

THE COURT: I beg your pardon.

MR. HITZ: The very thing which I read to you was read from the mimeographed copy, one of which was given to Mr. Brewster and Mr. LaPoma at the time of their testimony.

He read from what I hold in my right hand. What I hold in my right hand was given to LaPoma.

THE COURT: All right.

MR. HITZ: So that even if we find, may I say, that the matter was not made public from Executive, as to what they actually did say, nevertheless, there was a notice given that such testimony was being sought by the Committee and was going to be received, even though, in fact, it had been received in Executive.

I have just a couple more questions on --

THE COURT: Now, Mr. Hitz, something you said, I am going to have to interrupt you again which, apparently, you don't like. I guess maybe I shouldn't.

MR. HITZ: I am sorry, Your Honor. I do like it.

THE COURT: You told me a moment ago that you have not been permitted to finish any statement that you wanted to make.

Tr 363 Do you mean that literally?

MR. HITZ: In relation to the last inquiry that you made of me. I do mean it with respect to that. Of course not through the trial.

I am sorry I had occasion even to mention it.

THE COURT: Of course, it seems to me that a question from the Court may sometimes -- not always -- be helpful to counsel. It is certainly not asked idly by the Court.

MR. HITZ: It is extremely helpful, Your Honor, when you ask me questions.

THE COURT: All right. Go ahead.

BY MR. HITZ:

Q. Mr. Kennedy, you testified on cross examination that the letter of November 6, written under your direction, to the Labor Department, asking for the financial forms filed by the New York and related locals, that is, geographically related locals, was not to

obtain information on the western unions. A. That is correct.

Q. And that would appear to be obvious.

My question now is: When you wrote that letter concerning the New York locals' financial statements, had you yet received unverified information concerning the misuse by Western Conference unions?

Tr 364 A. We had some information. We had not yet interviewed the witnesses ourselves.

Q. But my question was, did you have unverified information? A. I would think we did not.

Q. You did not? A. We did not.

Q. What sort of information did you have concerning the western unions at that time? A We had information that I have discussed before regarding the certain misuse of union funds, and had arisen out of the House Committee hearings earlier, and the information that Mr. Bellino had concerning Mr. Frank Brewster.

We had that information; but we hadn't interviewed the people ourselves to find out whether this information was accurate or inaccurate.

Q. That is what I meant by "unverified information." But you did have that sort of information? A. That is right.

Union funds had been misused in Portland, and the rest of this

Q. And then it was the wish of you, as attorney for the Subcommittee, to verify and to interview as a result of that information? A. Yes, it was.

Tr 365 Q. And to do so on the West Coast? A. Yes.

Q. Including Mr LaPoma, himself? A. Yes, sir.

Q. And did you do that? A Yes, I did.

Q Just to clear up something that may not have much importance, but in any event, worth while perhaps to do.

You testified as to the Internal Revenue forms, Forms 990, that the Subcommittee on Investigations never did get them from Internal Revenue, but that subsequently the Western Conference later turned some over. A. That is to the best of my recollection.

Q. Is that about the testimony that you gave on that subject? A. Yes.

Q. I just wanted to clear up whether the Western Conference turned them over to this Subcommittee while it was conducting this investigation? A. No, they did not.

Q. Or to the successor committee which is the Special Committee investigating this subject? A. To the Special Committee.

Q. So that this Subcommittee never did get that material?

Tr 366 A. From the Western Conference, we didn't.

Q. And it wasn't sought from Internal Revenue direct? A. No.

Q. With respect to your conversations with Secretary Mitchell, you made reference to two calls upon him.

Actually, the first visit or the first talk with Mr. Mitchell was a visit you made to him in the Labor Department; was it not, sir? A. Yes, it was.

Q. And the second call was actually his call upon the offices of the Chairman, at which you were present; is that right, sir? A. That is right.

Q. But you didn't make two calls to Mitchell; Mitchell made one to you subsequently, and the Chairman? A. At the Chairman's request.

Q. You possibly gave this testimony. In any event, I wonder if you did give it, could you be a little more precise about it.

How long before the testimony of LaPoma on the 19th is it your recollection that you did receive the labor forms? I think you explained that the letter which the Chairman read from the Labor Department -- A. I explained, I thought, the best of my recollection was that

Tr 367 we received them on the 7th and went through them on the 7th.

Q. The 7th of January? A. (Witness nods assent.)

Q. Now, the questioning of you by Mr. Pickens seemed to indicate, and your answers, that the letter that the Chairman read from Mr. McGuiness, of the Labor Relations Board, was characterized by the Chairman, when he read it, on Page 196, as a letter "received this morning," with enclosures.

Having had that brought to your attention, you testified that that wasn't the occasion on which you first came upon the labor forms, but that they had been given through some staff inquiry to the staff earlier. A. Yes, sir.

Q. Now, relating my question to that subject, I would like to point out --

Have you got a copy of this Government 8 there? A. What page?

Q. 196. A. Yes.

Q. I would like to point out that this letter is from the Labor Relations Board, not from the Labor Department, and the Labor Relations Board, it is my understanding of your testimony, doesn't have these financial forms anyway, never get them.

Tr 368 All they get is the second part of the postal card which they get from the union which the union gets in both parts from Labor, upon the filing of whatever it is that is filed with Labor.

So that is it not rue that Mr. McGuiness, of the Labor Relations Board wouldn't be in a position to furnish by the letter "received today," as the Chairman says -- he couldn't have furnished you with the financial reports anyway; could he? A. Well, I guess he couldn't. I know when we met on January 7, we examined -- there were some documents that were examined into.

As I said on testimony this morning, I can't recollect clearly. I know that we had them prior to the time that they testified, but I can't remember which day.

But your summary of the fact that the NLRB doesn't have the records, themselves, appears to be correct.

Q So that Mr. McGuiness' letter from the Labor Board, that is on Page 196 and -7, would it not evidently refer to some other document, perhaps a copy of the half of that postal card? A. No.

THE COURT: Mr. Hitz, doesn't the letter speak for itself?

Tr 369 MR. PICKENS: I object.

THE COURT: He says this:

"Of those organizations named we find that the following have no compliance documents on file with us."

MR. PICKENS: And the later paragraph refers to the National Labor Relations Forms 1080 and 1085.

THE WITNESS: I gave the only testimony I know on that.

MR. PICKENS: This speaks for itself, Your Honor.

THE COURT: I think so. And Mr. Kennedy has answered to the extent of his ability to do so.

MR. HITZ: Yes.

BY MR. HITZ:

Q. Mr. Kennedy, is it then your testimony that you did receive the financial statements or copies of them filed with the Labor Department by these unions about January 7, and that the letter from the Labor Board on 196 and -7, of this exhibit, is not contrary --

MR. PICKENS: Your Honor --

THE WITNESS: I can't add anything to what I have said.

MR. PICKENS: I think that is in the record once or twice, and I don't think this is proper redirect.

THE COURT: I agree. I sustain the objection.

BY MR. HITZ:

Q. My recollection, and also my notes, on part of
Tr 370 your testimony, Mr. Kennedy, shortly after Mr. Pickens asked some questions with respect to this very subject, that is, the letter on 196, that you testified that the Committee got the forms from Leedom's office before the testimony of these witnesses, these labor witnesses.

If I am correct in my recollection and in my notes, would it be Leedom's office or would it be some other office? A. Mr. Hitz, I can't add anything. I said what I thought this morning. I can't add anything other than the fact that we met with them on January 7, and that I thought that Mr. Adlerman and Mr. Bellino remained, and that they examined these documents.

Q. Yes, but my question, Mr. Kennedy, is not when you received them now, but whether it was from Leedom's office? A. I thought that that was -- I thought that was where we got them from.

Q. That you got the financial reports filed with Labor from Leedom's office? A. That is what I thought. I could be wrong.

Q. I just wanted to be sure the record spoke the way that you testified. A. In view of your explanation, and in view of my explanation earlier that they send just a post card, it doesn't seem right, but we must have gotten them from the Labor Department. But I know

Tr 371 that we had them. I can't add anything to it.

MR. HITZ: Thank you, sir.

I think that is all for redirect, Your Honor.

MR. PICKENS: Just one or two questions, Mr. Kennedy.

RECROSS EXAMINATION

BY MR. PICKENS:

Q. When you say that the Committee had information regarding the Teamsters on the West Coast, LaPoma and Brewster and the unions out there, prior to the time of November 6, when you sent this letter to the Labor Department, you mean that the information you had was information that Mr. Bellino had, isn't that true, that you got from Mr. Bellino? A. We had discussed it, and also Mr. Mollenhoff. We come back to him. He also had a good deal of information.

Q Mr. Bellino got his information, did he not, because of the fact that he was with the McConnell Committee on Education and Labor that investigated welfare funds in the House of Representatives back in 1954? A I think that was one of the sources of his information.

Q Well, was there any other source? A. I don't know that. Whether he had any other source of information. I know what your description --

Tr 372 Q Did you have any other source? A. Mr. Mollenhoff. Mr. Mollenhoff had information Mr. Bellino had information. I don't know anybody else that had information during that. Those are the two people that I am aware of

Q Now: I just want to clear this up for the record. I don't think it is in there.

What was the Chotiner investigation?

THE COURT: What was what?

MR. PICKENS: The Chotiner investigation. He testified that he was out there on the Chotiner investigation. I just want the record to show it had no connection with either of these other investigations.

THE WITNESS: That is right.

THE COURT: Well, all right.

THE WITNESS: That is right.

THE COURT: That is so?

BY MR. PICKENS:

Q. It had nothing to do with labor racketeering in the broad scope or in the narrow scope? A. That is correct.

MR. PICKENS: Now, Your Honor, I think I can save some time, because we have found the point in the record about releasing this testimony.

If Your Honor will look at Page 230 of Government 8,
Tr 373 the first question.

"Mr. Kennedy. In executive session. Do you just want to put it into the record?"

He is talking about LaPoma's statement.

The Chairman says:

"It is already in the record. Those hearings have been made public. The statement is in the record.

"Mr. Kennedy. They have not been made public yet.

"The Chairman. Well, then, they have been ordered to be made public."

And that is the second day, the day of the 19th, that LaPoma testified. So that the transcript --

THE COURT: Then Mr. Bassett says -- I don't know what this means.

THE WITNESS: What page is this?

THE COURT: At the top of Page 230 of Government Exhibit No. 8, which is the record of hearings.

THE WITNESS: Yes, sir.

MR. PICKENS: He is referring Your Honor, to the statement that Mr. LaPoma gave on January 16.

THE COURT: Start Mr. Kennedy on Page 229.

MR. PICKENS: All right.

Tr 374 THE COURT: "The Chairman. Mr. Counsel, this witness has appeared before. His identity is in the record and also his counsel's identity is in the record.

"You may proceed."

And you said:

"He has a statement, I believe."

And Mr. LaPoma says:

"Yes, Mr. Chairman, I have a statement that I read before your committee before. Do you want me to read it?

"The Chairman. You read it before?

"Mr. LaPoma. Yes, before your committee."

And Mr. Kennedy says:

"In executive session. Do you just want to put it into the record?

"The Chairman. It is already in the record. Those hearings have been made public. The statement is in the record."

And you said:

"They have not been made public yet."

The Chairman says:

"Well, then, they have been ordered to be made public."

Tr 375 Now, what I don't understand is Mr. Bassett's comment.

"The statement identifies the witness."

MR. PICKENS: He, Your Honor, is referring to the statement that Mr. LaPoma read.

THE COURT: That Mr. LaPoma had made --

MR. PICKENS: On January 16.

THE COURT: -- before?

MR. PICKENS: Before, on the grounds of questioning the jurisdiction of the Committee and why he wouldn't produce the records.

THE COURT: What do you want to ask Mr. Kennedy?

MR. PICKENS: I don't want to ask him anything. He was going to find out when it was made public. I thought I would save him the trouble.

THE WITNESS: I don't think it saves me the trouble. I will find out.

THE COURT: I think you had better. That may not be the answer to it.

MR. KENNEDY: I could have been wrong. I will say this: I know, and I think the record shows it was voted to be made public immediately.

THE COURT: Find out whether it was or not; let Mr. Hitz know; and he will produce whoever can testify about it.

Tr 376 THE WITNESS: Fine.

THE COURT: Are you through with Mr. Kennedy?

MR. HITZ: I am not quite through, Your Honor. I think the record may not be sufficiently clear on the passing out of a copy of the Chairman's statement to each witness, including LaPoma; and if Mr. Kennedy is going to be excused, perhaps we had better go into that a little bit more fully than I have done.

May I do that now?

THE COURT: Yes.

MR. HITZ: I gather you are through with your recross, Mr. Pickens? You are through with your recross?

MR. PICKENS: Yes.

MR. HITZ: This would be a request by me, Your Honor, to go further into direct. We don't, of course, say this is rebuttal.

THE COURT: How long will it take you?

MR. HITZ: Oh, about two or three minutes, Your Honor.

THE COURT: All right.

MR. HITZ: Would you mark this Government 12, for identification.

THE CLERK: Government's Exhibit 12, for identification.

(Whereupon the said document was marked Government's Exhibit No. 12, for identification.)

Tr 377

REDIRECT EXAMINATION

BY MR. HITZ:

Q. Mr. Kennedy, would you describe when and in what fashion the statement of the Chairman that was read by him at the commencement of these hearings, and which appears on Pages 1, 2 and 3 of the hearings, being Government No. 8, was prepared? A. Yes. It was written the evening before the day of the first hearing.

Q. That would be the evening of the 15th? A. Yes. It was written, first, a rough draft by me, and then the Chairman and I went over it that night, the night of the 15th. And the stenographers -- it was the night of the snow storm -- the stenographers typed it up that night and I think mimeographed it early the following morning.

Q. And was it duplicated, Mr. Kennedy? A. Yes, it was mimeographed, I believe, the following morning. I am sure the following morning rather than that night, because it was too late. It was mimeographed the following morning early.

Q. Was the statement made by the Chairman as printed here a reading of that duplicated statement? A. It was.

Q. Thus prepared?

Tr 378

A. It was.

Q. And what was it that you caused to be given to the various witnesses, particularly having in mind the witness, LaPoma, or his attorney, at the time they appeared before your Subcommittee? A. I caused this statement to be given to them.

Tr 381 MR. HITZ: * * * * * I would like to have this document marked No. 12 for identification in its stead.

* * * * *

Tr 382 (Thereupon a document entitled Opening Statement of Senator McClellan was marked by the Deputy Clerk as Government's Exhibit No. 12 for identification.)

THE COURT: Yes.

MR. HITZ: The one just marked by the Clerk. There is this stipulation. Mr. Pickens has looked at it and compared it with an identical exhibit, which is No. 16 in the Brewster case.

Having in mind Mr. Kennedy's testimony with respect to that exhibit in the Brewster case, its identity with the 12 exhibit in this case, and Mr. Kennedy's testimony that there was a mimeograph run and there was only one run made of the Chairman's opening statement, which was given to either Mr. Bassett or Mr. LaPoma, Mr. Pickens and I have stipulated that if Mr. Kennedy were here he would identify Government's 12 as being one of the number of copies made of the statement that was read by the Chairman, and which copy or like copy was given to Mr. Bassett or Mr. LaPoma.

Is that the stipulation?

MR. PICKENS: That is correct.

THE COURT: And then you now offer it?

MR. HITZ: And I now offer 12 for identification.

THE COURT: Let that be received as an exhibit.

* * * * *

Tr 383 (Thereupon the document heretofore marked as Government's Exhibit No. 12 for identification was received in evidence.)

* * * * *

MR. HITZ: Yes, (submitting a document to the Deputy Clerk).

I believe that now, your Honor, gets us to the reading of the part that we particularly wish to call to the Court's attention.

THE COURT: All right. Now, what do you want to read to me?

MR. HITZ: Well, I wonder if I could put it this way: We want particularly to call to the Court's attention, and I am ready and able and willing to read as much of it as you care to hear, the full opening statement of the Chairman, Pages 1 through 3.

THE COURT: Now, if you are willing, both of you, to accept this, I have read that. Are you willing to forego reading it again?

MR. HITZ: Oh, yes, I am. Certainly.

THE COURT: Are you?

MR. PICKENS: Yes, Your Honor.

Tr 384 MR. HITZ: Now, the next is the testimony of Mr. Leedom, as it appears on Page 3 and --

THE COURT: Now, again, the same thing: I have read the testimony of Secretary Mitchell and Mr. Leedom. I have not read, or at least if I have I don't recall that I did, the testimony of Mr. Winkle.

Now, if you will accept the fact that I have read the testimony of Mr. Mitchell and Mr. Leedom then I see no point in reading it again. I have done that overnight.

MR. PICKENS: I certainly have no objection.

THE COURT: But I think that I did not read Mr. Winkle's testimony.

MR. HITZ: We are very happy to leave it that way and if you wish I will read the testimony of Mr. Winkle, which is on Page 29 of Government's 8.

"The Chairman. Mr. Winkle, will you state" --

THE COURT: Now, what date is this, Mr. Hitz?

MR. HITZ: This is all on the 16th.

THE COURT: And in executive session?

MR. HITZ: Likewise in executive session and it immediately follows Mr. Mitchell's testimony.

"The Chairman. Mr. Winkle, will you state your name and your place of residence and your official position with the Government?

"Mr. Winkle. My name is Justin F. Winkle,
Tr 385 Assistant Commissioner of Internal Revenue, in charge of technical activities.

"Mr. Barnes. John P. Barnes, Chief Counsel, Internal Revenue Service.

"The Chairman. How long, Mr. Winkle, have you been Assistant Commissioner of Revenue, and also how long have you been in the Revenue Service?

"Mr. Winkle. I have been in the Government service since 1927, and in the Revenue Service since 1934, and I have been Assistant Commissioner of Internal Revenue in this and in other capacities since September of 1951.

"The Chairman. Mr. Barnes, how long have you been with the Department? Would you give a resume of your Government service?

"Mr. Barnes. Mr. Chairman, I have been Chief Counsel since May 9, 1955. Prior to that, from about January 1, 1928, until May of 1933, I was an attorney in the Chief Counsel's Office. It was then called the General Counsel of the Bureau of Internal Revenue. For 2 years I was Assistant Legislative Counsel of the Senate, from 1926 to 1928.

"Mr. Kennedy. Mr. Winkle, under the
Tr 386 statutes, labor unions are tax exempt; is that correct?

"Mr. Winkle. Labor unions are tax exempt under a provision of the Internal Revenue Code.

"Mr. Kennedy. Do you have the right under the law to audit the books of these tax-exempt organizations?

"Mr. Winkle. We do, sir.

"Mr. Kennedy. Could you tell the committee how often those audits take place and discuss just briefly the practical problems that you feel that you face?"

THE COURT: What kind of problems?

MR. HITZ: "The practical problems that you feel that you face."

"Mr. Winkle. I think the practical problem that we face in this field is one associated with the volume of returns and other work the Revenue Service is called upon to perform each year; as contrasted with the resources that we have, manpowerwise particularly, to do that job. We get in a grand total of some 60 million income tax returns and a total of about 84 million returns of all varieties each year.

Tr 387 Manifestly, it is impossible for us to audit all of the returns. Many of them, of course, require little or no audit because of the withholding system.

"So that the objective of the Service is to attempt to accomplish a balanced program of enforcement by putting its manpower to the greatest extent feasible in those areas where experience has demonstrated there is the greatest potential of tax error.

"Coupled with that, we attempt to do a certain amount of work in other areas for tax enforcement purposes. As to organizations that are exempt from income tax, and the great bulk of them we feel are properly exempt since the exemptions include churches and schools and hospitals and the like, the Service is confronted in that area with the problem of how much of its manpower it should devote to exempt organizations; that is, the potential for deficiencies may certainly be there, but may not be there to the same

extent that it is in the case of the ordinary taxable organization.

"I think it is a fair statement to say that while we attempt to do as much audit work in
Tr 388 the exempt-organizations area as we can, we do not do as much as we would like to if we had the resources.

"Mr. Kennedy. Would you say therefore that the degree that you examine or audit tax-exempt labor unions is very small and very slight?

"Mr. Winkle. I would say on a comparative basis, it is very small; yes, sir.

"Mr. Kennedy. Do you think it takes place at all?

"Mr. Winkle. I know for a fact that there are some investigations underway right now, for example. Now, how they would stack up in contrast to the total number of labor organizations, I don't know. But to answer your question, yes, there is some of it done; but I think it would be very little in relation to the entire problem.

"Mr. Kennedy. What about the question if it is brought to your attention that there was an embezzlement or misuse of union funds by those in charge of these tax-exempt organizations? Would you feel that was something that would be of interest to you and that you would want to
Tr 389 take some action?

"Mr. Winkle. Might I ask Mr. Barnes, the Chief Counsel, to comment on that?

"Mr. Barnes. Well, there is some difficulty there in this respect: Embezzled funds are probably not income under the decisions.

"Mr. Kennedy. I am talking about as far as the union itself is concerned, and not as far as the officer is concerned. As far as the union itself is concerned being tax exempt, would you take any action or would you be interested in learning that these tax-exempt moneys are going or inuring to the personal benefit of some union official?

"Mr. Barnes. I think we would be interested, certainly.

"Mr. Kennedy. Would that have any effect on the tax-exempt status of the organization?

"Mr. Barnes. The regulations under the 1939 code provided and probably will provide under the new code, that one condition of the exemption of a labor union is that no part of the net income shall insure to any member. Now obviously, that is one point that we are concerned with, and that may have
Tr 390 an effect on the status of the labor union.

"Mr. Kennedy. Have you taken any action under that regulation of the Internal Revenue Code?

"Mr. Barnes. Not to my knowledge. I have checked within the available time, and I do not find that we have, so far as the Chief Counsel's Office is concerned.

"The Chairman. May I ask a question at that point? I think that I am clear on it in view of our conference in my office a day or two ago. If a labor union official or the union reporting on its financial report, or annual report -- if the disclosure of the amount of compensation and allowances are fraudulent or false as to the officers' compensation, would you not be interested in checking the records of that labor union to

ascertain the extent to which the officer was defrauding the Government on his income tax?

"Mr. Barnes. We certainly would, sir.

"The Chairman. Do you have that authority now to do so?

"Mr. Barnes. We do have authority to check under the law and the regulations.

Tr 391 "The Chairman. Can you get the records of the labor union for that purpose?

"Mr. Barnes. If the law is followed, we think we can.

"The Chairman. Have you had any trouble in the past in getting those records for that purpose?

"Mr. Barnes. Yes, there is a case pending right now, at least it was decided recently by the Court of Appeals for the Ninth Circuit.

"The Chairman. Was it decided that you could get the records or that you could not?

"Mr. Barnes. It was decided that under the statute where the labor union resisted our proceeding in the district court to enforce the subpena issued under the revenue act, that the district court had to determine whether the records of the union which had been requested were both relevant and material to the determination of the liability.

"The Chairman. You were denied?

"Mr. Barnes. We were denied.

"The Chairman. That case I understand is, or may be, on appeal.

"Mr. Barnes. We hope it will be appealed.

Tr 392

"The Chairman. You have requested it be appealed but that addresses itself to the Department of Justice.

"Mr. Barnes. Yes, sir.

"The Chairman. And all you can do is request?

"Mr. Barnes. That is correct.

"The Chairman. You do not know at this time whether or what action will be taken on the request?

"Mr. Barnes. No, sir.

"The Chairman. Let me ask you, if that decision stands, are you handicapped then in getting the information necessary to check on a false income-tax return under those circumstances?

"Mr. Barnes. If it stands, and it should be accepted by most of the courts of appeal, we would be definitely handicapped.

"The Chairman. You would be definitely handicapped?

"Mr. Barnes. Yes, sir.

"The Chairman. With respect to an individual, do you have the authority now to compel him to surrender his books and records to check on

Tr 393

his income tax?

"Mr. Barnes. We have the statutory authority, Mr. Chairman, but there is still a doubt as to how far he is protected by the fifth amendment, the provision against self-incrimination. That question is in a state of indecision, and won't be resolved unless it gets to the Supreme Court.

"The Chairman. You may get it unless he is protected under the fifth amendment?

"Mr. Barnes. That is right.

"The Chairman. But, when you want the records of a firm or some other business agency to check on the amount of its payments to someone else who may have filed a false return, you do have the authority and power to get those records?

"Mr. Barnes. Yes, sir.

"The Chairman. There is no question about that?

"Mr. Barnes. No.

"The Chairman. But as to a labor union, this case that you referred to held that you could not get them but the court could make a determination as to whether they were pertinent or not?

Tr 894 "Mr. Barnes. But that would apply to any third party, from whom we were trying to get information in order to check on the taxpayer.

"The Chairman. If this court decision stands, that that is the law, as it is now, then you are seriously handicapped in making checks that you would have to make from time to time not only on individuals but also upon corporations, and labor and tax-exempt organizations?

"Mr. Barnes. In my opinion, yes, sir.

"Mr. Kennedy. You would feel, I take it, that the tax-exempt status is a privilege rather than a right, isn't that correct?

"Mr. Barnes. I do.

"Mr. Kennedy. And that therefore that the tax-exempt organizations such as a labor union should have a greater responsibility for making these books available when they enjoy this privilege?

"Mr. Barnes. Yes, sir, I do.

"Mr. Kennedy. Is there any provision in the law, or in your regulations concerning how long these organizations have to keep their books and retain their books?

Tr 395

"The Chairman. That is tax-exempt orgarizations, you mean?

"Mr. Kennedy. Yes.

"Mr. Barnes. The provision of the regulation is somewhat indefinite. May I read it?

"The books and records required by this paragraph shall be kept at all times available for inspection by internal revenue officers, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

"The Chairman. How far back do you have the right to go now, in checking?

"Mr. Barnes. Three years ordinarily, sir, in the absence of fraud or exceptional circumstances.

"The Chairman. Under that you say it is a little indefinite, but they should at least keep them for 3 years?

"Mr. Barnes. That would be my own view, yes, sir.

"Senator Jackson. You said in the absence of fraud.

Tr 396

"Mr. Barnes. There is no statute, Senator, where fraud is involved, no statute of limitations.

"Senator Jackson. But I meant on the keeping of books, and you qualified your statement.

"Mr. Barnes. You see, this is indefinite, and probably it would be reasonable to keep to the period of limitations that applies to the determination of tax liability.

"Senator Jackson. If there is fraud they would be required to keep the books indefinitely?

"Mr. Barnes. Well--

"Senator Jackson. I am trying to reason that out.

"Mr. Barnes. If there was fraud, you would probably not expect them to keep the books at all.

"Senator Jackson. You wouldn't expect to find any books?

"Mr. Winkle. That is one of the practical problems that we encounter in attempting to lay down any flat or general rule, as to the time that any taxpayer, or all taxpayers should keep their books and records.

Tr 397 "As Mr. Barnes pointed out, normally, the Commissioner has the authority to make an assessment within 3 years, so that normally it would seem that in ordinary circumstances a 3-year retention period would be sufficient. But in view of the fact that there is no statute of limitations where there is fraud, it makes it pretty difficult to spell out a rule, a flat 3-year rule without at the same time in effect endorsing the destruction of records that might have been maintained in connection with a false return.

"Senator Jackson. Is there a statute now that relates to the destruction of records?

"Mr. Barnes. There is a penal statute, yes, sir.

"Senator Jackson. As it relates to that?

"Mr. Barnes. But as I recall, it is keyed into the regulations, Senator, and the regulations being indefinite that would apply."

Tr 398. "Mr. Barnes. But as I recall, it is keyed into the regulations, Senator, and the regulations being indefinite that would apply.

"Senator Jackson. Have there been any decisions on this, and I am just trying to find out what the law is.

"Mr. Barnes. I am sorry, but I couldn't answer that question. There may have been.

"Mr. Winkle. There are criminal penalties for willful failure to keep records or supply such information.

"Senator Jackson. What constitutes willful failure? Supposing the books are not available more than 3 years back. Then what happens?

"Mr. Winkle. I think we would probably have to check on the decision aspect of it, Senator.

"Mr. Kennedy. I have a couple of more questions. I would like to know whether you would question whether the tax-exempt status of a labor union should continue

Tr 399 if that union refuses to turn over the books?

"Mr. Barnes. As a legal proposition, I would say we had the right to challenge it.

"Mr. Kennedy. Would you think as a practical matter that you would challenge it?

"Mr. Barnes. I will let Mr. Winkle answer that.

"Mr. Kennedy. That you would try to examine into it and find out what the facts were?

"Mr. Winkle. I think perhaps up to the time the ninth circuit handed down this decision, the normal procedure probably would have been to try to compel production as the least drastic, and perhaps in some

instances the fairest, way to proceed rather than to take the summary action of revoking the exemption. I think up until the ninth circuit decision, the Service, subject to check by counsel here, probably had every right to believe that it would be able to get enforcement of its subpena rather easily by going into the district court. That would have compelled production.

"Now, I think the decision of the ninth circuit does raise a question certainly as to whether that is the way to proceed in the future or whether the other approach should be taken.

Tr 400

"Mr. Kennedy. That is something that you would definitely consider, if tax-exempt organizations refused to turn over their books to the Government, whether it is the legislative or the executive branch of the Government.

"Mr. Winkle. Particularly, as I say, if the ninth circuit decision stands.

"Mr. Kennedy. And it is now in existence?

"Mr. Winkle. It is now in existence in the ninth circuit.

"Mr. Kennedy. The other question I wanted to ask you was this: If it came to your attention through the hearings of this subcommittee or in any other way that the part of the net earnings of these tax-exempt labor oganizations inure to the benefit of some of the officials, and union officials of that organization, would that also raise a question in your mind as to whether the tax-exempt status should continue? Would you want then to make an investigation to determine that?

"Mr. Barnes. As a legal proposition, I would say certainly it ought to be looked into.

"Mr. Kennedy. Because of the regulation
Tr 401 that you have covering this matter?

"Mr. Barnes. Yes, sir.

"The Chairman. Are there any other questions? Do you think that we need some legislation to tighten up some of these problems?

"Mr. Winkle. Do you want to comment on that, Mr. Barnes?

"Mr. Barnes. Perhaps I can. Of course, Mr. Chairman, you realize that so far as Internal Revenue is concerned --

"The Chairman. Just a brief statement.

"Mr. Barnes. Legislative policy is handled by the Treasury, and I am just giving you my own personal views. I think to provide any more police measures might be of doubtful help. That is because of the difficulty we have now doing a policing job. It seems to me publicity and that sort of thing, which would induce or compel voluntary compliance might be more helpful, sir. That is just my own personal suggestion, sir.

"The Chairman. All right. Is there anything further?

"Thank you, gentlemen.

Tr 402 "Either of you may answer this question: What comment would you care to make with reference to an investigation of the character that this committee is undertaking? Do you think that it may result in some information being secured that would be beneficial and helpful to the administration of the revenue laws?

"Mr. Winkle. Well, I think, Mr. Chairman, that in consideration of the size of the problem that

confronts the Revenue Service, it would welcome any information from this committee or any other committee or any other source that would tend to pinpoint particular situations that would be productive of revenue or indicate that the laws had not been complied with.

"The Chairman. Thank you very much.

"The committee will stand in recess until 2:15.

"(Thereupon, at 12:40 p.m. Wednesday, January 16, 1957, the hearing was recessed, to reconvene at 2:15 p.m., the same day.)

"Afternoon Session

"(Present at the start of the afternoon session: The chairman, Senators Jackson, McCarthy, and
Tr 403 Revercomb.)

"The Chairman. The subcommittee will be in order.

"Members of the committee, we held executive session hearings this morning, at which time we heard a number of witnesses from the executive branch of the Government, representatives of the National Labor Relations Board, and of the Treasury Department.

* * * * *

Tr 409 "Their testimony was pertinent to this investigation. I heard it in executive session primarily because the Chair had announced this would be an executive session, because, as you know, too, the public hearings must be by a majority vote of the committee. I had no opportunity to do that. But there is nothing in their testimony, so far as I can observe, that needs to be kept secret in any sense. Therefore, unless there is objection on the part of

the committee, the Chair will make that record public as soon as it is transcribed.

"I will have, I may say to the members, the staff check with the departments interested, who testified, and ascertain from them if there is anything in there they think would be adverse if made public. I do not think there is.

"So if they have no objection, the Chair will proceed, without objection, to make the testimony public as soon as it is transcribed.

"Senator McCarthy. Mr. Chairman, in view of the fact that we have a quorum here, would it not be a good idea to entertain a motion to have open hearings tomorrow morning, as you planned on having them?

Tr 410

"The Chairman. If we find we need to. If you wish to, you may make the motion, that the Chair may call open hearings in this matter at a time he desires.

"Senator McCarthy. I then move that the Chair be given authority to hold open hearings at such time and at such place as he desires.

"The Chairman. On the subject matter of the inquiry as stated by the Chair this morning in the opening of the executive hearings?

"Senator McCarthy. Yes. I want to include that in my motion.

"The Chairman. Is there objection to the motion?

"The Chair hears none.

"The motion is adopted.

"All right, gentlemen.

"Mr. Brewster, will you be sworn, please?"

Tr 412 MR. HITZ: "The subcommittee met at 10:20 a.m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in room 357 of the Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

"Present: Senator John L. McClellan, Democrat, Arkansas; Senator Henry M. Jackson, Democrat,
Tr 413 Washington; Senator Stuart Symington, Democrat, Missouri, Senator Sam J. Ervin, Jr., Deomocrat, North Carolina; Senator Joseph R. McCarthy, Republican, Wisconsin; Senator Karl E. Mundt, Republican, South Dakota; Senator Chapman Revercomb, Republican, West Virginia.

"Also present: Robert F. Kennedy, chief counsel to the subcommittee; James N. Juliana, chief counsel to the minority; Jerome S. Adlerman, assistant counsel; Ruth Y. Watt, chief clerk.

"The Chairman. The subcommittee will be in order.

"(Present at the convening of the hearing were Senators McClellan, Jackson, Symington, McCarthy, Mundt, and Revercomb.)

"The Chairman. The Chair wishes to announce as we resume public hearings that in the interim since yesterday at noon when we recessed, the committee has heard a number of witnesses in executive session, witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry and testimony that indicates conditions prevail that are
Tr 414 of interest to the Congress in its investigation of Government operations with respect to its efficiency and economy. Some of those witnesses may have testified reluctantly under some apprehension as to

what might happen to them if their testimony should be revealed. The Chair took occasion during that executive session to instruct those witnesses that they remained under the cognizance of the committee, under their present subpena, and they are likely to be called to testify in public.

"The Chair instructed them that if anyone attempted directly or indirectly to intimidate them or coerce them or threaten them in any way, they should report that to the committee at once and the committee would take appropriate action thereon.

"I think that is a proper attitude for this committee to take toward those witnesses whom it subpenas and who give pertinent and vital testimony to the subject of this inquiry and under compulsion of a subpena. That is the rule of the committee, and we will try to observe it if the witness will
Tr 415 cooperate with us if any such attempt at intimidation or coercion or any threats are made against them.

"The first thing the Chair wishes to do is to insert in the record at this point a letter received this morning from Mr. Kenneth C. McGuiness, General Counsel of the National Labor Relations Board, in response to a letter written by the committee and to the Secretary of Labor on January 8, 1957 . . ."

THE COURT: There is no point in reading that letter.

MR. HITZ: I don't think there is.

I would now like to invite the Court's attention particularly to the testimony of LaPoma on the same date, the 19th, appearing on Page 229.

MR. HITZ: "The Chairman. You are excused for the moment.

"Mr. Brewster will remain subject to call, until we go through the other witnesses.

Tr 416 "Mr. Nugent LaPoma.

"You do solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

"Mr. LaPoma. I do."

* * * * *

"The Chairman. Mr. Counsel, this witness has appeared before. His identity is in the

Tr 417 record and also his counsel's identity is in the record.

"You may proceed.

"Mr. Kennedy. He has a statement, I believe.

"Mr. LaPoma. Yes, Mr. Chairman, I have a statement that I read before your committee before. Do you want me to read it?

"The Chairman. You read it before?

"Mr. LaPoma. Yes, before your committee.

"Mr. Kennedy. In executive session. Do you just want to put it into the record?

"The Chairman. It is already in the record. Those hearings have been made public. The statement is in the record.

"Mr. Kennedy. They have not been made public yet.

"The Chairman. Well, then, they have been ordered to be made public.

"Mr. Bassett. The statement identifies the witness.

"The Chairman. The statement will be printed in the record, then, at this point.

"(The statement referred to appears on p. 48.)

Tr 418 "Mr. Kennedy. Could he just read what he is?

"The Chairman. All right. Read that part of the statement that identifies you.

"Mr. LaPoma. On Saturday, December 15, 1956, there was served upon me a subpena addressed to Nugent LaPoma also known as George Cavano, Seattle, Wash. My true name is Nugent LaPoma but for many years I have been known as George Cavano. My address is 552 Denny Way, Seattle, Wash. I am the secretary-treasurer of the Teamsters Local 174, which is a voluntary, unincorporated association, organized as a labor union, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, affiliated with the AFL and CIO.

"The Chairman. That is sufficient to identify you, I believe.

"This subpena you received directed you to produce the books and records of Local 174, International Brotherhood of Teamsters, Chauffeurs and Warehousemen for the period January 1, 1951 to December 31, 1955, including cash receipts and disbursements,

Tr 419 canceled checks, general ledgers, bills and invoices, bank statements, correspondence files, check stubs, memoranda, and minutes of meetings. Is that correct?

"Mr. LaPoma. Yes, sir.

"The Chairman. Have you those records present?

"Mr. LaPoma. With regards to the latter, the statement I have read, I decline to answer.

"The Chairman. You decline to answer whether you have them present or not?

"Mr. LaPoma. Yes, sir.

"The Chairman. You are ordered and directed to answer the question whether you have brought those records and produced them or made them available to this committee or its staff since you received the subpena.

"(The witn ss conferred with his counsel.)

"Mr. LaPoma. Mr. Chairman, the reason I haven't brought those records is for the simple reason stated in my statement.

"The Chairman. You have not brought
Tr 420 the records?

"Mr. LaPoma. No."

And let me interrupt, Your Honor.

That is Count 1.

"The Chairman. You read this statement to the Committee in executive session, and now it is being printed here, just to expedite it. You stated your reasons in there.

"Do you have any other reasons to give other than what are in your statement?

"Mr. LaPoma. I decline to answer.

"The Chairman. You decline to answer, sir?

"Mr. LaPoma. No.

"The Chairman. Do you have any other reasons?

"Mr. La oma. No.

"The Chairman. Your answer is 'No.' Those are the only reasons.

"Are there any further questions?

"Let me ask one further question. Do you have any intention now of producing these records under this subpena?"

Interrupting, Your Honor, that is Count 2.

"Mr. LaPoma. With regards to the

Tr 421 statement, I decline to answer that.

"The Chairman. You are ordered and directed to answer it.

"Mr. LaPoma. In regards to the statement, I decline to answer that.

"(At this point, Senator Symington withdrew from the hearing room.)

"The Chairman. You have been in the room here all morning, have you not?

"Mr. LaPoma. Yes.

"The Chairman. Since the open session of the committee convened?

"Mr. LaPoma. Yes, sir.

"The Chairman. You heard the statements I made to the witness Frank Brewster with respect to the purposes of this inquiry and investigation?

"Mr. LaPoma. I did.

"The Chairman. Then you know the purposes --

"Senator McCarthy. You can answer it 'yes.'

"Mr. LaPoma. Yes.

"The Chairman. Then you know the purpose of the investigation, and, notwithstanding that knowledge,

Tr 422 your knowledge of it, and the statement the Chair has made here in open session as to those purposes, you still refuse and decline to comply with the subpena with respect to the producing of the records it calls for?" Count 3.

"Mr. LaPoma. In regards to the statement I have read, I decline to answer that.

"The Chairman. You are ordered and directed to answer the question.

"Mr. LaPoma. I decline for the same reason.

"The Chairman. I am going to ask you, were you present here in the room? You are denying that you were here in the room and heard the reasons assigned by the Chair?

"Mr. LaPoma. I didn't decline that. I said yes on that.

"The Chairman. Any further question?

"Mr. Kennedy. I want to identify these three financial statements that were filed with the Labor Department and which have the signature Nugent LaPoma on the bottom.

"The Chairman. Mr. Adlerman, you have
Tr 423 been previously sworn, and you hold in your hand now certain photostatic documents. Please identify them for the record.

"Mr. Adlerman. I hold in my hand three financial statements, labor organization registration form, Public Law 101, 80th Congress, filed by the Teamsters, Chauffeurs, Warehousemen and Helpers Union, Local Union No. 174. The first one was received by the Department of Labor on February 17, 1954. It shows F. W. Brewster, president, Nugent LaPoma, secretary-treasurer, and it is signed by Nugent LaPoma on February 15, 1954, and contains a financial statement.

"The second one is identical, except that the date -- I wouldn't say identical, it is similar -- it is dated received March 31, 1955, in the Department of Labor. It shows as its officers, F. W. Brewster, president, and Nugent LaPoma, secretary-treasurer. It is signed 'Nugent LaPoma' on February 14, 1956, and contains the financial statement for the fiscal year ending 1954.

"The third is similar, local 174,

Tr 424 received by the Department of Labor on February 20, 1956. It shows F. W. Brewster, president, Nugent LaPoma, secretary-treasurer. It is signed 'Nugent LaPoma,' March 29, 1955, and contains the financial statement for the period January 1, 1955 to January 1, 1956.

"The Chairman. The three documents identified by witness Adlerman may be made Exhibit No. 27.

"(The documents referred to were marked 'Exhibit No. 27' for reference and will be found in the appendix on p. 344.)

"The Chairman. I now direct that those documents be placed in front of the witness LaPoma, or witness Cavano -- whichever name he prefers --

"Mr. LaPoma. Cavano.

"The Chairman. All right.

"Will you look at those documents and state whether or not you will identify them?"

Interrupting, Your Honor, that is Count 4.

"Mr. LaPoma. In regards to the statement, Mr. Chairman, that I have read, I decline to recognize these documents.

Tr 425 "The Chairman. You are ordered and directed to examine them and state whether you identify them.

"Mr. LaPoma. I decline for the same reason, Mr. Chairman.

"The Chairman. The Chair orders you to do so on the basis of the statements he has previously made as to the jurisdiction of the committee.

"Mr. LaPoma. I decline --

"The Chairman. And for the reasons of the committee's investigation in this particular subject matter.

"Mr. LaPoma. I decline for the same reason, Mr. Chairman.

"The Chairman. I now direct that you examine your signature on those documents, or the signature appearing on the documents as the author of them, and state whether or not that is your signature on each document?" Interrupting, Your Honor, that is Count 5.

"Mr. LaPoma. I decline to answer for the same reason.

"The Chairman. You are ordered and directed to answer, and to comply with the directions and
Tr 426 instructions of the Chair for the reasons that the Chair has previously stated.

"Mr. LaPoma. I decline for the same reason, Mr. Chairman."

THE COURT: What page are you on now, please?

MR. HITZ: I am on 232.

THE COURT: Go ahead.

MR. HITZ: At the bottom.

"Mr. Kennedy. I might say about local 174 that that is the local in Seattle that was formerly headed by Dave Beck prior to Nugent LaPoma and Frank Brewster. We have information leading us to believe that certain funds of local 174 were used to pay the personal bills of certain high union officials. For that reason, we subpenaed Nugent LaPoma to bring these books before the committee so that we could examine him.

"The Chairman. And those bills that were paid, if they were, for high union officials out of union funds, are not reflected in these financial reports; is that true, Mr. Adlerman?

"Mr. Adlerman. I don't believe that they are sir,
Tr 427 and I think it is impossible to tell from the financial

statement that they filed whether or not they were.

"The Chairman. In other words, they are not so identified in the statement; are they?

"Mr. Adlerman. That is correct.

"The Chairman. In other words, it is not reported in there that these expenditures were made, as such?

"Mr. Adlerman. It is not reported as such. It would be impossible to tell from this statement.

"Mr. Kennedy. We have reason to believe that the transactions were carried out in such a manner as to attempt to hide them, and, therefore, they would not be reflected in those reports and, further, those reports would, therefore, not be accurate.

"The Chairman. Again, it is the subject matter of this inquiry, whether the Government is efficient or lacking in efficiency to procure the truth from these statements, and ascertain whether the Government is

Tr 428

being defrauded, and also whether accurate and truthful information is being disseminated, as the law requires, to the membership of these organizations as to what expenditures were made. In other words, to give them a true and correct financial statement of the organization's operations and, also, to determine whether such labor organization, as misuses and misappropriates such funds, should be permitted to continue as a tax-exempt organization.

"Is there anything further?

"Under the same cognizance that the Chair has issued to other witnesses, you will remain under the same subpena, subject to recall by the committee at such time as the committee may desire further testimony from you. Is that agreeable to your attorney?

"Mr. Bassett. Does that mean that we remain here, Mr. Chairman, in the city of Washington?

"The Chairman. You will remain here for the moment, but when these hearings are dismissed today and you are excused, it is within that understanding. You may be recalled in 10 minutes or in 10 days or

Tr 429 10 weeks. I am not sure.

"Mr. Bassett. All right."

THE COURT: That is all of Mr. LaPoma's testimony?

MR. HITZ: Yes, that is all, Your Honor.

THE COURT: Is that your case?

MR. HITZ: Just a moment, please, sir.

I would like to look on Page 344 and see if the signatures and amounts are legible in the reprint of the Exhibit No. 27.

THE COURT: I think I can answer that, because I looked at them, too, and they are not to me.

Yes, they are, on 345. That is legible.

* * * * *

Tr 430 MR. PICKENS: We will stipulate that the signature appearing on Page 345, which is a form dated February 15, 1954, is Mr. LaPoma's signature.

Likewise, the one appearing on Page 348, which is the form dated March 29, 1955, is his signature.

And the one on 351, the date seems to be a little bit obscure -- I think it is February 14, 1956 -- we will stipulate that that is his signature.

I think that is all, unless there is some other one in there.

MR. HITZ: Your Honor, in the event --

THE COURT: There is one -- I lost track of this for a moment -- on 345. The date is February 15, 1954; isn't it?

MR. PICKENS: That is correct, sir.

THE COURT: Then the following one is on 347, running into 348.

MR. PICKENS: That is correct.

THE COURT: And that is dated, apparently typed in, March 29, 1955.

MR. PICKENS: That is correct.

Tr 431 THE COURT: There is still another one; isn't there?

MR. PICKENS: Page 351. I think the date is February 14, 1956.

THE COURT: Yes, it is.

MR. PICKENS: We are willing to stipulate the signatures on those three are his.

THE COURT: All right.

MR. HITZ: Your Honor, in the event that it may for some reason in the future be desirable to be able to read the figures that are on these exhibits, I think, in addition, I will offer photostatic copies of these statements. In fact, the very ones that were the exhibit before the Committee, I am told.

THE COURT: Are they more legible?

MR. HITZ: Yes, they are quite a bit better than the reprint of them.

THE COURT: All right. I will receive them. They will be 13, 14 and 15; won't they?

THE CLERK: Yes, Your Honor.

MR. HITZ: Could we make them 13-A, B and C, so they retain more unity?

THE COURT: Yes, 13-A, B and C.

* * * * *

GOVT'S EXHIBIT #8

The following testimony was taken by the Subcommittee on January 16, 1957, and is printed in Government's Exhibit #8. It was not read into the record because the trial judge read it off the bench. (Tr 384, 411) It is reprinted here for the convenience of the Court.

EXCERPTS OF GOVERNMENT'S EXHIBIT NO. 8

1 VIOLATION OR NONENFORCEMENT OF GOVERNMENT LAWS AND REGULATIONS IN THE LABOR UNION FIELD

(On January 16, 1957, Boyd Leedom, Kenneth C. McGuiness, Harry H. Kuskin, Howard W. Kleeb, Hon. James Paul Mitchell, Stuart Rothman, Justin F. Winkle, John P. Barnes, Frank Brewster, Nugent LaPoma, and Arthur Santa Maria testified in executive session during hearings held by the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations on Violation of Nonenforcement of Government Laws and Regulations in the Labor Union Field. This testimony was made public on January 17, 1957, by members of the subcommittee and follows below:)

WEDNESDAY, JANUARY 16, 1957

UNITED STATES SENATE,

SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS,

Washington, D. C.

The subcommittee met at 10 a. m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in room 357 of the Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Henry M. Jackson, Democrat, Washington; Senator Stuart Symington, Democrat, Missouri; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Joseph R. McCarthy, Republican, Wisconsin; Senator Karl E. Mundt, Republican, South Dakota; Senator Chapman Revercomb, Republican, West Virginia.

Also present: Robert F. Kennedy, chief counsel to the subcommittee; James N. Juliana, chief counsel to the minority; Jerome S. Adlerman, assistant counsel; Ruth Y. Watt, chief clerk.

THE CHAIRMAN. The subcommittee will be in order.

(Present at the convening of the executive session were Senators McClellan, Jackson, McCarthy, and Mundt)

THE CHAIRMAN. The Chair will make this preliminary statement for the record.

As members of the subcommittee know, and as is public knowledge, during the past 2 years, the Senate Permanent Subcommittee on Investigations has been studying and inquiring into the procedures and practices in the procurement of textiles and uniforms by the military services. In the course of its investigation, facts were developed showing collusion between certain dishonest management and union officials that had the effect of increasing the cost to the Government of goods and commodities it purchased and the supplying of inferior quality.

In the passage of the Taft-Hartley law in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types of racketeering, including the misuse or misappropriation of union funds by dishonest union officials. The law provides that there shall be a registration of labor organizations and a full and accurate report by such organizations of their revenues and expenditures and of all compensation and allowances over and above $5,000 paid to and received by labor union officials and union employees from dues collected from members or from other union funds.

Today, the subcommittee will hear officials from the Department of Labor, the National Labor Relations Board, and the Treasury Department. We shall make inquiry of them as to the adequacy of existing statutes and their present rules and regulations to enable them to administer the law efficiently. Also, we shall inquire whether there should be any modification or changes in existing law to assist them in determining the adequacy, accuracy, and truthfulness of

financial reports and other information required to be supplied by labor unions and labor union officials.

We want to determine whether agencies of Government are able to and have the authority to ascertain whether such information contained in such labor union registrations, financial reports, and the reports of the labor union officials are accurate, true or false.

The subcommittee is aware of recent court decisions which may sharply limit and restrict the right of Government agencies such as the Treasury Department, the Bureau of Internal Revenue, the Department of Labor, and the National Labor Relations Board to investigate and determine the accuracy, truthfulness or falseness of various reports the unions and their officials are obligated to file. We intend to ascertain whether, in view of these court decisions, the responsibilities of the Government in this area under existing law are being administered efficiently and economically. We also want to know whether legislation in this area is necessary to improve the efficient and economic administration of existing law or if modification or change is required to promote greater efficiency and economy.

Conferences with representatives of the Bureau of Internal Revenue indicate the need for strengthening legislation to enable the Bureau to investigate labor organizations which, under the law, are tax exempt. The Bureau of Internal Revenue should have the authority to determine whether any of the labor unions' funds and particularly, dues collected from union members, are used by union officials for personal gain and profit. We also want to know whether and why such tax exempt labor union organizations can refuse to allow either the legislative or the executive branch of the Government to examine their books and records. The Government should be permitted to establish whether such organizations come within the purview of the law granting it a tax exempt status.

This subcommittee proposes to determine whether, after such refusal, the continuance of a tax exempt status is warranted or if such tax exempt status should be forfeited by such refusal.

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In the course of our previous investigations and this present preliminary inquiry, we have acquired information that clearly indicates that there is labor racketeering in the area of Government procurement resulting in increased cost to the taxpayers for commodities produced; that false reports have been filed by certain labor organizations with respect to their expenditures; that compensation and allowances paid by certain unions to their officials have not been accurately and truthfully reported; that there has been manipulation of accounts involving dues collected from their members, as well as welfare funds; also other irregularities and improprieties have come to the attention of the subcommittee.

It is, therefore, our purpose to develop facts and information that will enable the Federal Government to improve its efficiency and strengthen its economy. In this effort we have every reason to expect the wholehearted cooperation and support of the leaders and members of labor organizations whose actions and practices conform to the law, who observe the proprieties of proper labor-management relations, and who are interested and desire to cooperate in improving the efficiency and economy of Government operations.

I may further state for the record, that since it became known and publicized that this committee was making a preliminary investigation into this area of Government operations, the public has indicated a very keen interest in such an inquiry, as evidenced by letters that the committee is receiving from union members and members of labor organizations who are reporting about conditions that prevail and urging that attention be given to it.

Also, I think, it is fair to say that a good many Members of Congress have expressed views that there is a job here that should be done by the legislative branch of the Government in furthering an investigation or pursuing an investigation to develop the facts, so that Congress may take a look at it with a view to any legislation or any change in administrative procedures that might enhance Government efficiency and economy.

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I believe that is all the Chair wishes to state at this time. Does any member of the committee wish to comment?

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TESTIMONY OF BOYD LEEDOM, CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD: KENNETH C. McGUINESS, GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD: HARRY H. KUSKIN, ASSOCIATE CHIEF LEGAL ASSISTANT TO THE CHAIRMAN: AND HOWARD W. KLEEB, DIRECTOR OF THE ADMINISTRATIVE BRANCH OF THE OPERATIONS DIVISION OF THE OFFICE OF GENERAL COUNSEL

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THE CHAIRMAN. Will you state briefly, Mr. Leedom, first how long you have been on the National Labor Relations Board and how long you have been Chairman, and then also give the committee a brief resume of that Board's functions and what your duties and responsibilities are.

(Members present at this point were the chairman and Senator Jackson.)

MR. LEEDOM: I have been a member of the National Labor Relations Board since April 1955 and I have been Chairman since November of 1955. The function of the Labor Board is to administer the Labor-Management Relations Act, the National Labor-Management Relations Act, and that consists primarily of two chief functions: That is, the supervision of representation or union elections in the plants of the country, and the second function has to do with adjudicating charges of unfair labor practices under the act.

To relate the answer to the subject of this inquiry, as I understand it from your opening statement, the National Labor-Management Relations Act denies the use of the Labor Board to all unions that fail to meet certain requirements, and the ones that I think are particularly pertinent here are those in sections 9 (f), (g), and possibly (h) of the act.

Those requirements are, generally speaking, that labor unions shall file statements of their financial activities and operations with

the Secretary of Labor, and that they shall file statements concerning their officers and compensation and dues collecting, and that they shall circulate or distribute this information to the rank and file members.

Section 9 (h) requires that every officer file an affadavit that he is not a member of the Communist Party. The statute further provides that any union that fails to meet these requirements that I have enumerated cannot file a charge that will be prosecuted by the Board, and cannot seek the services of the Board in the supervision of an election for them in the plant.

THE CHAIRMAN. Before there can be an election by a union, or a local of a union, must that union have complied with the law with respect to registration and meet the other requirements of the statute, and have a certificate from the National Labor Relations Board so certifying, before it can proceed to have a legal election?

I used the term "certificate," and there may be some other name for it, but it is equivalent to a letter stating to the Board in some form that that union has complied with the Taft-Hartley law or the National Labor Relations Act and, therefore, it is entitled to recognition by the Board.

MR. LEEDOM. That is right, sir.

THE CHAIRMAN. Now, when this registration is done, what is required in the registration? What information does the Board receive upon which it acts to determine such certificate or letter of compliance?

MR. LEEDOM. The reports of the unions covering officers, dues, and the moneys collected, and their other financial data are filed with the Secretary of Labor in the form that he prescribes.

THE CHAIRMAN. And that registration is not filed with the National Labor Relations Board, but with the Secretary of Labor?

MR. LEEDOM. That is right. When it is actually filed in the form that he requires, he mails to the union that filed it a little statement that looks like a post card that they have met the filing requirements and the union then is required under our rules to mail

that to us. So all we get from the unions as to their financial data and the requirements under 9 (f) and (g) are these little so-called post cards advising from the Secretary through the union to us that they have met the filing requirements.

THE CHAIRMAN. In other words, the National Labor Relations Board acts solely upon a post-card certification issued by the Department of Labor, or by the Secretary of Labor.

MR. LEEDOM. That is right.

THE CHAIRMAN. The Board has no other information regarding that registration as to what it contains and what information it has revealed and whether it actually has complied with the law except just a statement from the Secretary to that effect?

MR. LEEDOM. That is right.

THE CHAIRMAN. Does the Board in any instance have authority to go behind that post-card certification as to the labor organization compliance?

MR. LEEDOM. It is our opinion that we have no authority to go back of the post card.

THE CHAIRMAN. So then your efficiency in that respect, or the efficiency of the Board in that respect, depends entirely upon that certification by that post card that the union has complied?

MR. LEEDOM. That is correct.

THE CHAIRMAN. And you have no knowledge about the detailed information that is submitted?

MR. LEEDOM. That is right.

THE CHAIRMAN. And you have no way of inquiring into it?

MR. LEEDOM. That is right. I might make this explanation which may not really be relevant, but in some cases where there may arise the question as to whether or not the information which the Secretary of Labor requires has actually been filed, sometimes that question gets into one of our compliance cases. That is, the issue will arise in the case, that this union actually is not in compliance in that the Secretary of Labor required their financial data up to a period

ending at a given date. The union will be contending that actually it did furnish the information as required up to that date, and so we have had cases where we have gone into that type of a question so that we could decide whether or not they really were in compliance. That is a rare thing.

THE CHAIRMAN. Let me ask you this: Do you make any check, or does the Board make any check on the information submitted for registration as to its truthfulness, its accuracy, or its sufficiency?

MR. LEEDOM. None at all.

THE CHAIRMAN. Does the Secretary of Labor make any such check so far as you know?

MR. LEEDOM. So far as I know, he does not, but I do not really know.

THE CHAIRMAN. Well, he can testify as to that. Then, if he does not make a check or have any authority to do so, it is simply a case of just accepting whatever the union wants to submit.

MR. LEEDOM. That is right.

THE CHAIRMAN. If a union or a labor organization seeking recognition, authority to bargain, and other benefits and privileges accorded under the Labor Act, files a false report or gives misinformation regarding its status at the time it applies, do you know now whether any check is made at all from any source of Government to ascertain whether the Secretary of Labor and the National Labor Relations Board are being imposed upon by such union?

In other words, whether they are telling the truth?

MR. LEEDOM. According to my best information and belief, there is no check whatever made as to the accuracy by any governmental representative, and I have no way of knowing as to whether or not false affidavits or statements of financial activity are being filed.

THE CHAIRMAN. Now, the unions are required, or the labor organizations are required, under the law, I believe, to file annual reports of their finances.

MR. LEEDOM. That is right.

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THE CHAIRMAN. And they are also required to distribute that information among their membership. The law requires them to file a statement before your Board showing that they have disseminated that information or distributed that report to their members and how they distributed it. Is that correct?

MR. LEEDOM. That is correct.

THE CHAIRMAN. In that report that is filed and that is distributed to the membership, is there any check made on that by the National Labor Relations Board to ascertain its accuracy and the truthfulness of it?

MR. LEEDOM. I think I am correct in saying that there never is a check made of the accuracy of the report filed. As to the distri-

7 tion of the report among the members of the union, when the issue is raised as to whether or not it actually was distributed, the Board inquires into that and requires proof that there was a substantial compliance with the requirement of the statute that it be distributed.

THE CHAIRMAN. But you do undertake, and you have that authority, the Board has, as you interpret this law and as the Board functions, to determine that they have made the distribution?

MR. LEEDOM. That is right, because of the peculiar wording of the statute.

THE CHAIRMAN. But there is nothing in the statute that gives the Board the authority and the Board does not now in practice undertake to verify the truthfulness of the financial statement required to be distributed.

MR. LEEDOM. That is right. We think now, particularly since the Supreme Court has just recently ruled in the two so-called Communist cases, that it is clearly established that we have no right to go back of the showing of the filing of the financial reports.

THE CHAIRMAN. In other words, if a labor organization or union makes application for and seeks registration and files a financial statement that may be false, inaccurate and misleading, the Board as I understand you, if the Secretary of Labor certifies by

post card that it has complied, is powerless to go beyond that certification to satisfy itself that the labor union is eligible and has complied with the law.

MR. LEEDOM. That is my opinion and that opinion is based on the considered judgment of other legal authorities with the Labor Board.

THE CHAIRMAN. You spoke of recent court decisions. Would that apply, also, in your judgment, to the Secretary of Labor, that he has no authority to go back of it and beyond it?

MR. LEEDOM. That would be my opinion, with respect to the Secretary of Labor, too.

THE CHAIRMAN. Then, the Government has very little protection if one desires to perpetrate a fraud in this area?

MR. LEEDOM. That is right. At least these provisions of the National Labor Relations Act afford very little protection. The statute does contain a special reference to fraudulent allegations and the reference of those to the Department of Justice, so that there would be that.

THE CHAIRMAN. How are you ever going to determine that they are faulty if you cannot inquire into them?

MR. LEEDOM. That is right. Our administration of the act is not such that it would tend to uncover fraudulent representations, and how they would come to light is more than I know.

THE CHAIRMAN. If, under the ruling of the Supreme Court recently, their statement cannot be challenged, your Board and the Secretary of Labor are compelled to accept and act upon them without challenge. Then, is there, in your opinion, sufficient protection for the Government's interest?

MR. LEEDOM. That gets me to an area where I would have to decide exactly what burden or obligation Congress meant to impose upon the Labor Board or what objective they intended to reach by putting these particular provisions, 9 (f) and 9 (g), into the act. It gets

a little involved, but the Supreme Court has held that all Congress intended with respect to the non-Communist affidavit as they related it to the National Labor Relations Act, was to require the officers to make the affidavit and that Congress, so the Supreme Court said as I understand the opinion, could not have intended to burden the Labor Board with the duty of ferreting into each affidavit for the reason that they would not get any cases decided.

Now, if that was the intent of Congress with respect to 9 (h), maybe it was not the intent of Congress with respect to 9 (f) and (g) to require the Labor Board to delve into the accuracy of the reports and to achieve only such good results as you would achieve by depending upon the honesty of the people who make the affidavit.

I can see that the way is open under the act, the way it is now written, and the way it is now interpreted and administered by us, for frauds to be perpetrated without this act providing any very adequate remedy.

Now, if that is a bad situation in the eyes of Congress, then I think Congress ought to change the law.

THE CHAIRMAN. Let me ask you another question: Are labor organizations required in this annual report to file a statement of the compensation and allowances made to their officers over and above $5,000 per annum?

MR. LEEDOM. That is right; yes.

THE CHAIRMAN. Does the Board now have any authority, or in the course of administering the law does the Board make any check with respect to the accuracy of that report as to the amount of compensation and allowances paid officers?

MR. LEEDOM. No, we do not, and we think we haven't the authority.

THE CHAIRMAN. You do not, and you think you do not have the authority?

MR. LEEDOM. To do so, yes.

THE CHAIRMAN. Do you know whether the Secretary of Labor makes any such check or has the authority to go beyond or behind the report filed and inquire into its veracity?

MR. LEEDOM. According to my belief, he does not. I have no actual knowledge about that.

THE CHAIRMAN. You have no actual knowledge that it is done by any agency of the Government?

MR. LEEDOM. That is right.

THE CHAIRMAN. Does that afford opportunity for imposition of fraud upon the Government? Is that not a loose operation or administrative practice? I am not saying or I am not arguing that you do have the authority, but to leave it in that situation?

MR. LEEDOM. At least that permits unions and labor organizations to circumvent what may have been the intent of Congress and that is to make the use of the Labor Board available only to those who file honest reports.

THE CHAIRMAN. Now, I would think that was the intent of Congress, at least, to require honesty of any citizen or business having a business with the Government.

MR. LEEDOM. It would seem so, but I have to refer back to the Supreme Court in their non-Communist cases. In those cases the Board took the position that if an officer of a union files a false affidavit and announces practically that he had filed a false affidavit to meet the requirements of the law, we thought that if everybody else knew it was false we had a right to take notice of the falsity of it and to disregard it. The Supreme Court said otherwise.

9 THE CHAIRMAN. In other words, under the recent court decision, a Communist officer or president of a labor organization can file a perjured oath that he is not a Communist, and a month later the Supreme Court can adjudicate him to be a Communist, but your Board and the Department of Labor is powerless to revoke any privileges that have been granted to the union or to the officer by reason of that false affidavit?

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MR. LEEDOM. That is correct.

THE CHAIRMAN. Now, do you say in view of that decision, you think that you are confronted with the same situation with respect to false financial reports?

MR. LEEDOM. I think that we are.

THE CHAIRMAN. Now, do you have information that some unions have filed false financial reports with respect particularly to the compensation and allowances of their officers?

MR. LEEDOM. I am not aware of any knowledge of that at all, either officially or unofficially. I never have inquired into that. We don't as I have said, do it officially and I don't recall ever having anybody tell me.

THE CHAIRMAN. In other words, you have considered it none of your business under the law as it is today?

MR. LEEDOM. That is right.

THE CHAIRMAN. And, therefore, you have made no inquiry into it?

MR. LEEDOM. That is right.

THE CHAIRMAN. If such is the case that some unions are failing to report truthfully with reference thereto, then is the statute in its present form effective or is it just a shadow of form only?

MR. LEEDOM. It is not effective to deny the services of the Labor Board to a union whose officer chose to file a false affidavit.

THE CHAIRMAN. In other words, under the law as it is today, as you have interpreted it and in view of the Supreme Court's decision, any fraud can be committed upon the Government in this area by a labor union or labor union officials and still they are entitled to all of the prerogatives and benefits of the statute?

MR. LEEDOM. That is right. The remedy for their malfeasance would be under the criminal law only and not under the Labor Relations Board.

THE CHAIRMAN. They would be subject to penalty under the criminal law, but without the power or authority of anybody to inquire

into it it would be a very rare instance in which it would ever come to light and the penalty could be invoked; is that correct?

MR. LEEDOM. That follows, I think.

THE CHAIRMAN. Now, does this act require that not only the local union or local labor organization file these reports and meet all of these requirements under the statute, but does the law also require that any affiliated organization, including the national and international organization, must likewise comply with the statute before they would be entitled to the certificate of compliance?

MR. LEEDOM. The statute specifically requires only that the labor organization seeking to use the services of the Board, and any of its national or international affiliates, comply. It is not specific as to levels of organization between a local and an international.

THE CHAIRMAN. Well, what has been the ruling of your Board with reference to these intermediate organizations as to whether they should file and comply?

MR. LEEDOM. Under cases that we have decided under the law, we had a policy, not too well defined, of inquiring into the question as to whether or not there is an intermediate organization that is a labor organization and under some circumstances as they appear in cases, from case to case, and on a case-to-case basis, we would hold or have held such intermediaries to be labor organizations and required them to file.

THE CHAIRMAN. Now, in order for a labor organization to get the services of the Board, I believe the statute requires under subsection (B) of subsection (f) of section 9 of the act--I believe I am identifying the location of it; that--

> "No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under section 9 (e) (1) shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of

section 10, unless such labor organization and any national or international labor organization of which such labor organiza- is an affiliate or constituent unit (A) shall have prior thereto filed with the Secretary of Labor copies of its constitution and bylaws and a report, in such form as the Secretary prescribe, showing among other things--"

and then it details them following that.

Then it continues these matters that we have been discussing, including financial statement, compensation of officers, and other things that we have discussed. Is that correct?

MR. LEEDOM. That is correct.

THE CHAIRMAN. Now, we find in subsection (5) of section 2 of the act a definition of the term "labor organization" which is as follows:

"The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

That is the legal definition of labor organizations; is that correct?

MR. LEEDOM. That is correct.

THE CHAIRMAN. And your Board, I presume, rigidly adheres to that definition in its deliberations and decisions?

MR. LEEDOM. Yes, sir.

THE CHAIRMAN. Now, may I ask you whether the Western Conference of Teamsters have ever complied with the law?

MR. LEEDOM. They have not.

THE CHAIRMAN. Before your Board?

MR. LEEDOM. They have not.

THE CHAIRMAN. Are they authorized to act as a bargaining agent in these matters referred to in section (5)?

MR. LEEDOM. I assume by your question you mean, are they authorized to act as the labor organization and to bargain and whatever it takes to make a representation. I would say they are not. I think we might clear this up: I was thinking that with respect to using the Board as a labor organization. Now, there is nothing to prevent them, the Western Conference of Teamsters, from doing whatever a labor
11 organization can do without resorting to the services of the Labor Board. But, my initial answer assumed that you meant as a labor organization not having complied, whether they do seek the services of the Labor Board, file charges of an unfair labor practice on the part of someone else.

THE CHAIRMAN. Might I inquire whether they are subject to registration if they actually are a superorganization over the teamsters unions in some 11 States?

MR. LEEDOM. Notwithstanding that there is something above the level of a local, if they seek to act as a labor organization and to utilize the services of the Labor Board, they are required to comply.

THE CHAIRMAN. Well, in other words, if they do any of the things enumerated here in subsection (5) of section 2, then they are a labor organization; are they not?

MR. LEEDOM. That is right.

THE CHAIRMAN. Then, if they do sit in at the bargaining table with the unions under their jurisdiction, and actually bargain for those unions with respect to wages, grievances, hours of employment and conditions of work, then are they not actually getting the benefit of the Board and of the law and of its services without compliance?

MR. LEEDOM. I think my answer will involve a little explanation. The unions with which you say they may be sitting in and negotiating with may not under all of the conditions of your question, be in compliance themselves. They may not be seeking anything from the Labor Board. They may have shown the companies that they had a majority and the company recognized them and there was no occasion

to come to the Labor Board.

The western conference may have sat in or may sit in with them. It has no occasion to come to the Labor Board and they would all be acting as labor organizations, but they would not have to comply under the way we administer the act because they are not asking anything of the Board. The sanction does not apply against them because they are not seeking anything.

THE CHAIRMAN. Then, they are not required to file any financial reports, disclose how the funds are being expended, any funds that they may collect from their membership in the nature of dues, or part of the dues that is collected from a local union or by the local union. You mean they would not come under the jurisdiction of the act?

MR. LEEDOM. Under the circumstances that I set out in my last answer, they would not have to file any of the papers required by 9 (f), (g), or (h). But let me add this: If one of the unions or one of the locals that had admittedly been operating as a labor organization had filed a charge with the Labor Board and it appeared in that case that the Western Conference of Teamsters had been sitting in with the local in the union activity out of which the charge grew, and that came up in the record before us. I think I am right in saying that under some of our decisions we have handed down we would hold that the teamsters was a real party in interest as a labor organization and would require them under those circumstances to comply with 9 (f), (g), and (h).

THE CHAIRMAN. You would require the Western Conference of Teamsters to comply if the question was raised and you found they were performing services as defined here under "labor organization" in the statute?

MR. LEEDOM. And their affiliate was seeking something from the Board.

THE CHAIRMAN. Their affiliate would be their local union?

MR. LEEDOM. The local union would be before us seeking

something, yes.

(Senator Symington entered the room.)

THE CHAIRMAN. May I inquire from your experience in administering this statute as a member of the Board and as chairman of the Board whether in your opinion such an organization does come now within the purview of the act?

MR. LEEDOM. I would say that it is not clear that they do. I think the confusion that exists in that area of the law arises over the use of the words in section 9 (f) of the act, where the filing is required of such labor organizations:

"and any national or international labor organization, of which such labor organizations and affiliate or constituent unit."

The specification there of national or international affiliates is required.

THE CHAIRMAN. If this western conference is affiliated with a national organization, then would it not be required to file?

MR. LEEDOM. Certainly, if it comes into the Board seeking anything as a labor organization, the primary one referred to in 9 (f), we would require it.

THE CHAIRMAN. Suppose that its unit local comes in seeking something. Do you mean that such an organization as the Western Conference is not now covered by statute?

(Senator Jackson left the room.)

MR. LEEDOM. I would say it is not clearly covered, and, therefore, the interpretation of the act in the past does not reach it well. If it does not come in as the primary labor organization, it would not be required to comply clearly as an affiliate.

THE CHAIRMAN. From your experience then, in administering the act, would you say that legislation is needed to clarify this and would you feel that such an organization should be required to register and make financial statements?

MR. LEEDOM. Assuming that the Western Conference is a labor organization, which we have been doing this morning, and assuming that they are and assuming it was the intention of Congress

to require all levels of organization under the act, then I would say that the act is not written clearly enough and the act is inadequate to reach them.

SENATOR SYMINGTON. Will the Chair yield there a moment?

THE CHAIRMAN. I have just one additional thought: Would it enable you to administer the act more efficiently if that authority was clearly defined and such organizations were required to report?

MR. LEEDOM. Some clarification in this area would help the Board, I think, in determining what labor organizations are really required to comply.

SENATOR SYMINGTON. You said:

"Assuming that the Western Conference is a labor ganization."

I do not know anything about the Western Conference. In your opinion, is it a labor organization?

MR. LEEDOM. I really do not know, Senator, because we have never had any of its affairs brought before us officially and I never had occasion to inquire into them unofficially.

SENATOR SYMINGTON. Did you ever hear of the organization before?

MR. LEEDOM. Yes, I heard of it.

SENATOR SYMINGTON. What did you hear about it?

MR. LEEDOM. Well, I have heard that the Western Conference really controls all of the locals out in the 11 Western States.

SENATOR SYMINGTON. What do you mean by "locals"?

MR. LEEDOM. Local teamsters' unions.

SENATOR SYMINGTON. What do you mean by "control"?

MR. LEEDOM. That they dictate policy and actually get in and bargain for them. I don't mean to say that I believe this. I am telling you what I have heard. Officially, I have heard nothing. Unofficially I have heard this and other things about it.

SENATOR SYMINGTON. Thank you, Mr. Chairman.

MR. KENNEDY. In addition, you have received reports back

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over the last few days indicating the degree of control that the Western Conference exercises over these locals.

MR. LEEDOM. I think that is right, Mr. Kennedy. I personally have not seen those reports.

MR. KENNEDY. When we reach a conclusion on whether the Western Conference of Teamsters is or is not a labor organization, certainly those things have to be taken into consideration.

(Senator Jackson returned to the room.)

MR. KENNEDY. To follow up what Senator Symington said, the reports that you do get show that they control or have a veto power over all of the locals operating in this area, that they sit down and negotiate contracts which are signed by the locals but are negotiated by the Western Conference, and that the pension funds are all administered by the Western Conference. You have 2 or 3 cases here, or at least 1 case in which the Western Conference signed a contract and you have another case in which the Western Conference stated:

> "The Joint Council of the Teamsters 37, General Teamsters Local 324, and Western Conference of Teamsters, for the purpose of this stipulation only, are labor organizations within the meaning of section 2, paragraph (5), of the act."

All of that evidence is available to the NLRB regarding the Western Conference of Teamsters.

MR. LEEDOM. Yes; I think that you are right.

MR. KENNEDY. Then, in answer to Senator McClellan and Senator Symington, regarding the question of whether the Western Conference of Teamsters should be required to register under the act, I would think that all of these things have to be taken into consideration. You said that you had no information and you just get rumors about the fact that the Western Conference of Teamsters might have this power. But in fact, if anybody looked into it, in the NLRB, they would find out that these facts exist.

MR. LEEDOM. I am willing to accept that. I think maybe that is true.

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SENATOR SYMINGTON. Just to be sure that the record is clear, you say that you do not know, and you assume that the Western Conference is a labor organization, but you do not know that; is that correct?

MR. LEEDOM. That is correct.

SENATOR SYMINGTON. The witness said he assumed that the Western Conference was a labor organization, but he did not know it, and I asked him if that was correct, and he said "Yes."

THE CHAIRMAN. Let me ask counsel a question to clarify this. What report did counsel refer to?

MR. KENNEDY. When we first started to look into this question of the Western Conference of Teamsters, the NLRB was kind enough to get in touch with their offices throughout the western part of the country to find out what control the Western Conference of Teamsters had over the local unions and whether they took part in any negotiations, and these are reports that they have furnished to us.

In addition, there is another case that has also been furnished to us by the NLRB, where the Western Conference of Teamsters signed a contract, which is here, Senator. They have also assisted us by providing another case, in which the Western Conference of Teamsters in a stipulation stated that they were a labor union organization.

In addition, yesterday, I believe, in this discussion that you had with the chairman, it was stated that even though it is written specifically in the act that the local and the national or the international organization should register, under the interpretation of the act in the Highland Park decision of the Supreme Court in 1951, when you get information such as is available now on the Western Conference of Teamsters, you would get that intermediate organization to sign and to register with the Board. Is that not correct?

MR. LEEDOM. Yes.

MR. KENNEDY. So it is not just a national or international organization?

MR. LEEDOM. I think that I should amplify my answer on that a little. In checking our cases to try and get what our policy is, with respect to intermediate organizations, just yesterday afternoon and evening, I think that I can say that the policy is not very clear with respect to intermediate levels of organization between locals and internationals.

Now, the Highland Park decision has broad language to which some people point and say that this language clearly shows an intention to require all levels of labor organizations to file.

MR. KENNEDY. Can I read that section into the record?

"As the court of appeals from both the fourth and fifth circuits said, congressional purpose was to wholly eradicate and bar from leadership in the American labor movement, at each and every level, adherents to Communist Party and believers in the unconstitutional overthrow of our Government."

That applies to these financial statements, also.

MR. LEEDOM. That is right, and I think that language is partly responsible for such policy as the Board has in certain types of cases to require intermediate levels of organization to comply.

THE CHAIRMAN. The Chair hands you a photostatic copy of a document, and I will ask you to examine it and state whether the original is on file with the National Labor Relations Board and then state what the document is and who signed it, and representing whom.

(Members present at this point: The chairman and Senators Jackson and Symington.)

MR. LEEDOM. This exhibit that you have handed me is a photostat of an original that is on file with the National Labor Relations Board as an exhibit in a case pending before us. The original is an agreement between the teamsters' union and the Englander Co., and it is executed by an individual in behalf of the local union, and by another individual in behalf of the Western Conference of Teamsters. It is also executed by some individual in behalf of the employer.

THE CHAIRMAN. Well, that is the photostatic copy of a

document now on file with your Board?

MR. LEEDOM. That is right.

THE CHAIRMAN. That document will be made exhibit No. 1 Ex. for reference only at this time.

(Exhibit No. 1 Ex. may be found in the files of the subcommittee.)

THE CHAIRMAN. I will ask you if the Western Conference did participate in and sign that contract, had it been certified under the National Labor Relations Board or by the Secretary of Labor as a labor organization entitled to bargaining and bargaining rights?

MR. LEEDOM. It appears from this exhibit that the Western Conference executed the contract, and I know that the Western Conference has never been in compliance with the law at our Board. I cannot say what significance that contract has in determining the question as to whether or not they should be in compliance.

SENATOR SYMINGTON. I have never seen the paper that has been made a part of the record.

THE CHAIRMAN. I am not making it a part of the printed record. It is just for reference. I wanted it identified, and we might want to refer to it in further testimony.

SENATOR SYMINGTON. Is it in order for me to ask what it involves, at this time?

THE CHAIRMAN. It is a contract, a negotiated contract for wages, and a regular bargaining contract.

MR. LEEDOM. That is right. It is a contract that comes out of collective bargaining.

THE CHAIRMAN. I hand you another mimeographed copy of a document. Will you examine that, and state whether the original of that document is on file with the National Labor Relations Board, and state what the document is?

MR. LEEDOM. This is a mimeographed copy of a settlement agreement that was effected in two cases that were processed by our Board, or in process at our Board. It is a settlement agreement executed by the Western Conference of Teamsters.

Pardon me, I didn't see this. It is the Western Conference of Teamsters and a Joint Council of Teamsters and the company involved, and another company involved, and all of the parties involved in the dispute.

THE CHAIRMAN. That is on file with your Board?

MR. LEEDOM. That is right; it is on file.

THE CHAIRMAN. The original?

MR. LEEDOM. Yes.

THE CHAIRMAN. That will be made exhibit No. 2 Ex. for reference only.

16 (Exhibit No. 2 Ex. will be found in the appendix on p. 259.)

THE CHAIRMAN. I hand you another document, and ask you to examine it and state whether this document is on file with your Board, and what the document is. It is a photostatic copy of a document, I should say.

MR. LEEDOM. This is a photostatic copy of the memorandum from the regional director of our 21st region to Mr. McGuiness, in which he reports information concerning the Western Conference of Teamsters. It is dated January 9, 1957.

THE CHAIRMAN. Where is that on file?

MR. LEEDOM. That is on file in our offices.

THE CHAIRMAN. That may be made exhibit No. 3 Ex. for reference.

(Exhibit No. 3 Ex. will be found in the appendix on p. 262.)

THE CHAIRMAN. I hand you another document that I am unable to identify, but I ask you to examine it and state what it is, and whether it is a part of the official records and files of the National Labor Relations Board.

MR. LEEDOM. This is a copy of a telegram, the original of which is on file in our offices here in Washington. It is from the officer in charge of our subregional office in Denver, Colo., and it is directed to a Deputy Assistant General Counsel here in Washington, and it contains information concerning the Western Conference of

Teamsters.

THE CHAIRMAN. That document may be made exhibit No. 4 Ex. for reference only at this time.

(Exhibit No. 4 Ex. will be found in the appendix on p. 263.)

THE CHAIRMAN. Now, I hand you here what purports to be four printed forms that I am advised that unions desiring to be certified or have a letter of compliance are required to file with your Board. Will you identify each of those, and as you identify them they will be marked "Exhibits 5A Ex., 5B Ex., 5C Ex., and 5D Ex."

(Exhibits Nos. 5A Ex., 5B Ex., 5C Ex., and 5D Ex. will be found in the appendix on pp. 263-267.)

MR. LEEDOM. Exhibit 5A Ex. is the form we have set up to be signed by union officers that are not Communists. That is 5A Ex.

Pardon me just a moment. I wonder if I could make a statement before Senator Symington leaves?

I am not sure that I understood the full significance of the question you asked me, Senator Symington, as to my assuming that the Western Conference of Teamsters is a labor organization. I answered you that I assumed they were.

SENATOR SYMINGTON. If I may interrupt the witness, first I would like to say that I am not leaving because of any lack of interest. I have 2 other hearings this morning, and I am trying to be present at 3 committees. Secondly, it was not my question, it was your statement. I know nothing about this situation except what I have read in the papers because it has not yet come before the committee. The exception to that is one meeting the committee had prior to this executive hearing.

But you advanced a statement, Mr. Leedom, in which you said that you assumed that it was a labor organization. I did not originate it, and I simply picked up your assumption. I wondered whether the Chairman of the National Labor Relations Board would want to go on the record with the assumption. If this organization is signing contracts with employers, it would seem to me that your knowledge

of their position was more than an assumption, and you were the one that used the term.

MR. LEEDOM. Then I think that I had better explain on the record what I mean, because the Senator may have misunderstood.

SENATOR SYMINGTON. Do you want me to listen now?

MR. LEEDOM. I don't want to give any misinformation.

SENATOR SYMINGTON. I have just received a call and I am going to read the record.

MR. LEEDOM. I know that you have a lot of business to attend to, but I would like to keep the record straight and so I will make a statement.

SENATOR SYMINGTON. I will be back, but I will listen now.

MR. LEEDOM. When I said that I assumed the Western Conference of Teamsters was a labor organization, I related that answer wholly to the question you had asked me in which I thought you were drawing the assumption they were, and basing a question to me on that.

THE CHAIRMAN. I was basing the question upon information we have as to its activities, its functions, and what it is and what it is actually doing, and then to substantiate the assumption I made, based upon that information, I am introducing these documents in evidence to sustain the assumption or to make the direct proof.

MR. LEEDOM. I simply wanted to make it clear that I was not assuming as a matter of fact that the Western Conference is a labor organization. When I said that I assumed it, I meant that I was assuming it because I thought that is what you wanted me to do in answering your question.

THE CHAIRMAN. Well, you assumed it for the purpose of answering the question?

MR. LEEDOM. That is correct.

THE CHAIRMAN. That is, the question that was directed to you?

MR. LEEDOM. Yes; and that is all I intended to say.

SENATOR SYMINGTON. May I say for the record that, to the best of my knowledge, this morning is the first time I have ever heard of the Western Conference in my life. I was simply asking the witness what he thought.

MR. LEEDOM. I am sorry I delayed you.

THE CHAIRMAN. The Chair may say that he did not hear of it until recently, but it seems to be a rather large organization, and a powerful one.

SENATOR SYMINGTON. I will be back, Mr. Chairman.

(At this point, Senator Symington withdrew from the hearing room.)

MR. LEEDOM. I am sorry to interrupt.

Now, exhibit 5B Ex. is our form No. 1080, which is the one we require of unions to show the titles of all of their officers and the names of the officers and other data concerning their tenure of office.

Exhibit 5C Ex. is our form No. 1085, which is the statement we require to be signed by officers of unions, to show that they have actually distributed their financial data among their members.

Exhibit 5D Ex. is our form 3054 which is a form we require of unions to show that they intend to file the required financial data, within the limits we have imposed by our rules, or the time limits we have imposed by our rules.

18 THE CHAIRMAN. Those may all be made exhibits as numbered for reference.

(Exhibits 5B Ex., 5C Ex., and 5D Ex. will be found in the appendix on pp. 264, 266, 267.)

THE CHAIRMAN. Is there any further question?

Gentlemen, those of you who were sworn, Mr. Kleeb, Mr. Kuskin, and Mr. McGuiness, do you have anything to add or any comment to make upon the testimony that you have heard or can you give the committee any information that you think will be helpful to it in its work as outlined in the opening statement of the Chair?

MR. McGUINESS. I don't believe I have anything to add at this

time, other than to say that I will be glad to answer any questions.

SENATOR JACKSON. There is one general question that I want to ask. In the light of the testimony here, and the information that has been brought out by reason of that testimony, is the NLRB contemplating legislation to be recommended to the Congress to give it authority in those areas where there appear to be gaps by reason of various judicial interpretations of the law that you are charged by law to administer?

MR. LEEDOM. No, sir; there is no plan of the Board to submit legislation or to submit a recommendation for legislation in this area.

SENATOR JACKSON. Of course, I take it that if the committee requests that you consider specific recommendations, you would be willing to do so?

MR. LEEDOM. We will be glad to cooperate in any way in furnishing the benefit of our experience.

SENATOR JACKSON. Do you feel that the gaps that appear as a result of this testimony should be covered by recommendations from the Secretary of Labor?

MR. LEEDOM. As between his office and ours, I think that they should come from his office.

SENATOR JACKSON. And it is for that reason, then, I take it, that you are really not recommending legislation?

MR. LEEDOM. It is my own personal view that we are there to administer the law, and not to choose sides as to what the law should be, and it is more appropriate that it be someone else's function to make such recommendations.

THE CHAIRMAN. I take it from your testimony that you do agree with the chairman of this subcommittee, at least, that there are loopholes and areas that need clarification?

MR. LEEDOM. Yes; that is a correct statement.

THE CHAIRMAN. In order for the law to be efficiently, or more efficiently administered?

MR. LEEDOM. I think that is right.

THE CHAIRMAN. And clearly to define what the responsibility of the Board is with respect to reviewing or examining into reports filed before it upon which it bases action as to their veracity and accuracy?

MR. LEEDOM. Yes. I am repeating, but if it is the desire of Congress to achieve the objective of denying the services of the Labor Board to unions who do not make honest and truthful revelations as to their financial activities, then the law isn't adequate to reach that.

THE CHAIRMAN. It is not adequate now to reach that?

MR. LEEDOM. That is right.

19 THE CHAIRMAN. Would you not think that would be a good objective of the Congress?

MR. LEEDOM. It seems all right to me. That would be a more pertinent question if I were in Congress.

MR. CHAIRMAN. You think that it should be pertinent to a Congressman?

MR. LEEDOM. That is right.

THE CHAIRMAN. Are there any other questions?

SENATOR JACKSON. In all candor, do you not feel that you are in a better position to determine whether or not there is a need for that legislation because of your knowledge of the problems? Our knowledge of it stems from a short hearing but you live with it from day to day. Should not the burden be on your department, with all due respect, to advise the Congress whether or not such legislation is needed?

MR. LEEDOM. I think that the problem, the basic problem, goes beyond the details of our activity. In the first place, you have to give consideration to how much of a policeman you want to make of the Labor Board. Now, our primary function is to conduct elections, and settle unfair labor practice charges.

SENATOR JACKSON. Just let me say this: I might not have made myself clear, but I can well appreciate that you would like to

correct the loophole that Senator McClellan has referred to in connection with the filing of non-Communist affidavits and financial statements. But your opinion is that the administration and the policing of that probably ought to be done by the Department of Labor. But you would not deny the responsibility on your part to call attention to the Congress of the fact that this thing does exist. That is my point.

MR. LEEDOM. No; that is right. But you get into a serious question as to whether they want the Labor Board to do that. That involves an expenditure of a tremendous amount of money.

SENATOR JACKSON. I assume it is your offhand judgment that you should continue in your present function of dealing with the cases which come before you in a quasi-judicial capacity, and not get into the auditing and the policing, leaving that to some other agency of the Government. You do feel, however, that there is that need in order that your Department can function more effectively?

MR. LEEDOM. That is right. I think that there is a serious question as to whether the Labor Board should have that extra burden.

SENATOR JACKSON. It is a question of jurisdiction?

MR. LEEDOM. Yes.

THE CHAIRMAN. That really is not the issue before us, as to who should be charged with the administration of any changes in the law.

MR. LEEDOM. Except that bears on the adequacy of the labor law. Maybe we shouldn't have any greater burden than to do what we do, and maybe someone else should have that.

THE CHAIRMAN. The basic question is, should there be changes in order to improve the efficiency of Government. Now, Congress decides to what agency it will delegate the authority to carry out any change in the act that it may in its wisdom pass. It is not a question before us how as to which agency shall do it. The question is, fundamentally, should it be done?

MR. LEEDOM. That is right, should it be done, and apparently it should. Then the question is, do you amend the Labor Act or make

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another law.

THE CHAIRMAN. Thank you very much, and I appreciate your cooperation. You have been very helpful.

MR. LEEDOM. Thank you, sir.

THE CHAIRMAN. Gentlemen, will you please stand?

Do you and each of you solemnly swear that the evidence you shall give before this Senate investigating subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

SECRETARY MITCHELL. I do.

MR. ROTHMAN. I do.

TESTIMONY OF HON. JAMES PAUL MITCHELL, SECRETARY OF LABOR; AND STUART ROTHMAN, SOLICITOR OF THE DEPARTMENT OF LABOR

THE CHAIRMAN. Mr. Secretary, will you state your name, your place of residence, and your official position?

SECRETARY MITCHELL. James P. Mitchell, 3601 Connecticut Avenue, Washington, D. C., Secretary of Labor.

THE CHAIRMAN. Will you state your name, and residence, and your official position, please, in the Government?

MR. ROTHMAN. Stuart Rothman, 4474 Salem Lane Northwest, Washington, D. C., Solicitor of the Labor Department.

THE CHAIRMAN. Mr. Secretary, how long have you been Secretary of Labor?

SECRETARY MITCHELL. Three and one-half years, approximately.

THE CHAIRMAN. During that period of time, I am sure that you have become wholly familiar with your duties and responsibilities in your office.

SECRETARY MITCHELL. I hope so.

THE CHAIRMAN. This committee is inquiring into some matters that have come to its attention that in its opinion may have an impact upon the efficiency and the economy of Government. The Chair read into the record a preliminary statement as to the purpose of these

hearings. If you have not read it, there is a copy of it before you, and I do not believe you were here. It gives you the general background or outline of the objectives of this series of hearings.

We wanted to inquire of you with respect to some aspect of your duties and the administration of laws under your administration.

Will you please state, first, what reports or information labor organizations under existing law are required to file with the Department of Labor?

SECRETARY MITCHELL. Mr. Chairman, under the Taft-Hartley Law, the Department of Labor is the custodian of certain reports that are filed by labor organizations. This report contains the name of such labor organization and the address of its principal place of business; and the names, titles, and compensation and allowances of its three principal officers and of any of its other officers or agents whose aggregate compensation and allowances for the preceding year exceeded $5,000, and the amount of the compensation and allowances paid to each such officer or agent during such year. The law also

21 requires the delineation of the manner in which the officers and agents referred to in clause 2 above are elected, appointed, or otherwise selected. It must also contain a statement of the initiation fee or fees which new members are required to pay on becoming members of such labor organization, and it must contain a statement of the regular dues or fees which members are required to pay in order to remain members in good standing of such labor organization.

The report also must contain a detailed statement of, or reference to provisions of its constitution and bylaws showing the procedure followed with respect to qualification for or restrictions on membership, election of officers and stewards, calling of regular and special meetings, levying of assessments, imposition of fines, authorization for bargaining demands, ratification of contract terms, authorization for strikes, authorization for disbursements of union funds, audit of union financial transactions, participation in insurance or other benefit plans, and the grounds for explusion of members.

The report shows also receipts of any kind, and the source of such receipts, and the total assets and liabilities at the end of the fiscal year, and the disbursements made by the union during the fiscal year, including the purposes for which it shall be made.

That is the nature of the report filed with the Department of Labor, of which we are the custodians.

THE CHAIRMAN. May I inquire if all of these requirements are essential and prerequisite to a labor union or organization being given a letter of compliance, or a certificate that would entitle it to the services of the National Labor Relations Board?

SECRETARY MITCHELL. This is essential to such certification.

THE CHAIRMAN. All of that is essential?

SECRETARY MITCHELL. Yes.

THE CHAIRMAN. As I understand, they first have to file, at the time of organization or subsequent thereto, if and when they desire the services of the National Labor Relations Board, these reports with you? That is a financial report and the other things that you have enumerated.

SECRETARY MITCHELL. That is right.

THE CHAIRMAN. And annually they have to file a financial statement; is that correct?

SECRETARY MITCHELL. Yes, sir.

THE CHAIRMAN. Now, if they fail to file an annual statement, would they then be ineligible for the services of the National Labor Relations Board?

SECRETARY MITCHELL. On failure to file; we immediately notify the National Labor Relations Board and that Board takes action in accordance with the law, which prohibits them from having status before the Board.

THE CHAIRMAN. What action do you take to notify the National Labor Relations Board that a union or labor organization is in compliance?

SECRETARY MITCHELL. We notify them upon the receipt and upon the checking of the document, and we notify the union that it has filed its report in the form prescribed by the Government for the fiscal year.

THE CHAIRMAN. You do not notify the Board directly, do you?

22 SECRETARY MITCHELL. The union, as I understand it, certifies to the Board that it has such a document from us.

THE CHAIRMAN. In other words, the document of certification or acknowledgment of compliance, in whatever form it is, I believe it is in the nature of a postcard, is it not?

SECRETARY MITCHELL. I have it before me; yes, sir.

THE CHAIRMAN. Will you file that postcard as exhibit 6 Ex. for reference only, at this time?

(Exhibit No. 6 Ex. will be found in the appendix on p. 268.)

SECRETARY MITCHELL. Yes, sir.

THE CHAIRMAN. We would like to have it to refer to later.

Then, if I understand you, that is the only action taken by the Department of Labor on the compliance of a union or labor organization?

SECRETARY MITCHELL. As I understand it, that is right.

THE CHAIRMAN. There is no direct certification that goes from the Secretary of Labor to the National Labor Relations Board?

SECRETARY MITCHELL. That is correct.

MR. ROTHMAN. I understand that is the way it is now.

THE CHAIRMAN. Gentlemen, you say you understand that is the way it is done. It is the way it is done.

SECRETARY MITCHELL. That is right.

THE CHAIRMAN. Then, may I inquire whether a labor union is in compliance under existing law today if it files a false and fraudulent financial statement?

SECRETARY MITCHELL. The financial statement may be in fact false and fraudulent, but in accordance with the statute as it is now written the Government has no means of determining that it

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is false or fraudulent so that it is possible in a bare statement that a false and fraudulent financial statement might be filed and a union might be in compliance with the present law.

THE CHAIRMAN. In other words, the filing of a statement, even if it is filed willfully and knowingly that it is misleading and false and not accurate, does under existing law, in your opinion, place that union in compliance?

SECRETARY MITCHELL. Yes, sir; because the existing law requires the Secretary of Labor merely to be the custodian of the document filed.

THE CHAIRMAN. It has no administrative function other than to accept the documents, retain them as a depository, and certify or issue a communication saying that they are in compliance?

SECRETARY MITCHELL. We issue a communication saying in effect that the provisions of the law have been complied with by the union and, therefore, they are in compliance.

THE CHAIRMAN. Do you regard now, under existing law, that the Department of Labor or the National Labor Relations Board has any authority to challenge a financial statement of a union or labor organization filed pursuant to law, notwithstanding it may appear to be false or fraudulent?

SECRETARY MITCHELL. The only authority we have to challenge the financial statement as the law now reads is if the union has failed to answer any of the questions that may be on the form. We have no authority to challenge the accuracy or validity of that information.

THE CHAIRMAN. So one union, one set of union officials or an organization may come in and file honest and truthful reports and

23 receive the benefits of the services of the National Labor Relations Board, and another union under present law can file a false and fraudulent statement and receive the same benefits?

SECRETARY MITCHELL. That is correct.

THE CHAIRMAN. Even if you, as Secretary, should know them to be false under present law, you have no power or authority to deny

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certification or issuing a statement of compliance?

SECRETARY MITCHELL. That is true, except that where we have had occasion through information given to us to question the accuracy of the statement, we have, from time to time, referred that matter to the Department of Justice for whatever criminal action may be required under the Criminal Code. We, ourselves, have no authority to do that.

THE CHAIRMAN. You have no authority. In the course of long drawn-out litigation, if it does ensue, in the nature of a criminal action or a prosecution, that union would still remain in compliance and would be entitled to all of the services of the National Labor Relations Board, notwithstanding the falsity of its report?

SECRETARY MITCHELL. Yes, sir. I might say this: Mr. Chairman, we are the custodians of some reports of some 39,000 unions. I want to say for the record that the honest and good unions which you mentioned predominate.

THE CHAIRMAN. And there are many of them, and they do predominate in my judgment.

SECRETARY MITCHELL. I would judge that the great majority of the financial reports we get are factual presentations.

SENATOR JACKSON. Following the line of questioning you have engaged in a moment ago, Mr. Secretary, what happened to these cases that were referred to the Department of Justice? Do you know whether there were effective prosecutions?

SECRETARY MITCHELL. I do not know.

SENATOR JACKSON. May I ask you this question: Do you know whether or not any union or union official has been convicted of filing false financial statements?

SECRETARY MITCHELL. Not to my knowledge.

SENATOR JACKSON. Do you have any information on that, Mr Solicitor?

MR ROTHMAN. Not to my knowledge, to the best of my knowledge it has not occurred.

SENATOR JACKSON. Has the Department recommended any legislation or is the Department in the process of recommending legislation to fill this void or to close this loophole?

SECRETARY MITCHELL. At the moment, Senator, we are reviewing at the President's direction the whole Taft-Hartley law for the purpose of making recommendations to him, which subsequently will be made to Congress for amendment to the law. As the President stated in his state of the Union message, he proposes to send to Congress at some subsequent date amendments to the Labor Management Relations Act. Of course, in our review, certainly this section is one of those that we would consider and review as to whether we should make recommendations or not.

SENATOR JACKSON. You are giving consideration to this situation?

SECRETARY MITCHELL. To this and others; yes, sir.

SENATOR JACKSON. Among others?

SECRETARY MITCHELL. Yes, sir.

SENATOR JACKSON. If I understand this testimony correctly, Mr. Chairman, I do not quite understand what purpose is achieved at the present time by the filing of these statements other than to build up a large archives division within the Department of Labor. I am told that the information that is filed with the Department of Labor is not public information. The public does not have the right to see any of these reports.

SECRETARY MITCHELL. That is correct.

SENATOR JACKSON. I am not trying to be facetious, but in light of the court decisions, and so on, what possible purpose is achieved in pursuing the present procedure?

SECRETARY MITCHELL. May I say this, Senator, that we set forth the regulations in the implementation of that section of the law, and we took into account and our predecessors have taken into account the apparent legislative intent of Congress when this was passed. It was clearly the legislative intent of Congress at the time

that these reports not be made public and that they be made available only to the appropriate committees of Congress.

SENATOR JACKSON. I understand that part, but I am merely, again, asking a question. I am not saying you have misinterpreted the law, and do not misunderstand me, but I am trying in my own mind to understand what purpose is achieved by this procedure.

SECRETARY MITCHELL. I think the purpose that Congress visualized was that members of the union would have available to them a financial report of the union with which they were associated.

SENATOR JACKSON. Do you not think Congress also visualized that the union be given an accurate and honest report and not just a report or fictitious report?

SECRETARY MITCHELL. I would assume that that was inherent.

SENATOR JACKSON. That is the whole purpose, because just to comply perfunctorily with the provision of law that there be a report is not adequate.

In that connection I was wondering why some reference was not made on this form--is the form R-1?

THE CHAIRMAN. Let the witness identify the form and we will make it an exhibit. We will make it exhibit No. 7 Ex. for reference.

(Exhibit No. 7 Ex. will be found in the appendix on p. 268.)

SECRETARY MITCHELL. I have before me the form, Bureau of the Budget No. 44--R700, labor organization registration form, under Public Law 601, 80th Congress, and this is the form that is used in filing in the Department of Labor.

SENATOR JACKSON. It is also referred to as form R-1?

SECRETARY MITCHELL. You may have a different one. This is approved July 1, 1946.

SENATOR JACKSON. Yes. It is also identified as form R-1.

I note in reading through the form that the only reference to the statute or laws involved is in the first paragraph of the form. It occurred to me that there should have been some reference to title 18

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section 1001, the False Statement Act. In other words, that anyone who signs this, although not signing before a notary, nevertheless signs it with full knowledge of title 18, section 1001. I just make that suggestion.

SECRETARY MITCHELL. It is a very good one.

SENATOR JACKSON. The point being that most statements are filed under oath. Perhaps not most, but it is not unusual, Mr. Chairman, that they be filed under oath. Someone might be led to believe that he is not under oath when he files the statement for purposes of the statute I referred to. At least it involves a criminal penalty to file a false statement.

(At this point Senator Symington entered the hearing room.)

THE CHAIRMAN. Pursuing the questions asked you by Senator Jackson as to what purpose such reports serve, if they serve no other purpose than to merely get the information disseminated to the members and there is no way to compel them to be accurate or truthful, then they serve a harmful purpose if misleading information and false information is disseminated to the members regarding the financial status?

SECRETARY MITCHELL. In the case of a deliberately dishonest union official; yes, sir.

THE CHAIRMAN. That would be true, would it not?

SECRETARY MITCHELL. Yes.

THE CHAIRMAN. Now, if one can file an honest report, and another can file a false report, and there is no way to check and to compel compliance, and I mean compliance in its proper sense, then that is an imposition on the honest official, is it not?

SECRETARY MITCHELL. I think so.

THE CHAIRMAN. And also on the Government?

SECRETARY MITCHELL. Yes, certainly, the filing of a dishonest report is an imposition on the Government.

THE CHAIRMAN. And yet we have the requirement of law as of today, but no policing of it?

SECRETARY MITCHELL. No policing of it, sir.

THE CHAIRMAN. Would you think it would add to or improve the efficiency of Government if we could take some action by legislation or adminfstrative action to ascertain that the forms and the information are accurate and truthful?

SECRETARY MITCHELL. I would think that if such action were desirable, it would have to be by legislation because administratively, I think, the law is being complied with as it is now written. The question arises certainly as to the general premise of insuring some inspection or developing some inspection mechanism to insure accuracy of these reports. I will have to say that is a desirable objective. There are some very big administrative problems that arise that I can think of. There are some, as I said before, 39,000 unions which file with us.

As I said before, I would think that the vast majority of them are honest reports. The mere job of investigating 39,000 reports annually would be a terrific one. Perhaps some way could be found, and offhand I can't think of one, in which the dishonest, fraudulent reports could be discovered.

THE CHAIRMAN. Even if we had some procedure or policy like the Internal Revenue Bureau, for instance, it cannot possibly examine and audit all of the millions of income-tax returns. But it can and does make spot checks, and certainly in an instance where it may appear on the face of the report or document that it is inaccurate or untruthful, they can immediately look into it.

SENATOR SYMINGTON Will the Chair yield?

Mr. Secretary, is there no law on this? I want to be sure I understand this, and I have signed a good many labor contracts. I wondered if there is a law which would punish a man for filing a dishonest return, but there is no way of finding out whether the return is dishonest. Is that correct?

SECRETARY MITCHELL That is correct. The man may be punished for filing a dishonest or fraudulent return by the operation of

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the criminal statutes. But that would have to come about by virtue of a complaint and a court prosecution and so on. We have no way of administratively determining whether these reports are correct or not.

SENATOR SYMINGTON. May I proceed, Mr. Chairman?

In other words, whereas in income-tax filing of monetary matters there is a very complete method for investigation providing an investigation is considered warranted; in this case, after the filing of the report in question, there is no such plan whatever?

SECRETARY MITCHELL. There is no authority for any Government agency to do so.

SENATOR SYMINGTON. Thank you.

THE CHAIRMAN. May I inquire about this: I have, since some publicity was given to this preliminary inquiry that the committee has been conducting, received letters from members of labor unions, and in one instance I recall specifically he complained about the affairs of the union and the way they were being handled. He said that they had not had an election of officers for 25 years. If they could even get an election of officers, he said, they could clean house themselves.

Would you comment upon the law with respect to the election of officers of labor unions?

SECRETARY MITCHELL. There is nothing in the law which compels a union to hold elections at specified periods. Most of the unions hold regular elections in accordance with their own constitutions.

THE CHAIRMAN. I am not saying this report to me is true. I do not know.

SECRETARY MITCHELL. To my knowledge, most of the American unions, in accordance with their constitutions, hold not only local elections regularly, and periodically, but national organizations hold elections once every year, and sometimes once every 2 years, and some every 4 years for national officers.

THE CHAIRMAN. Well, I did not know. I am not saying that the report to me was true. I do not know. But it would seem to me

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that that is a bad situation. That would be true if it existed anywhere.

Now, may I ask you another question regarding these false reports? When a labor union is organized, a local, we will say, it has to make a report, does it not, naming its officers and the number of members and the dues charged, and so on?

SECRETARY MITCHELL. Yes, sir.

THE CHAIRMAN. If a report is filed stating that a local has been organized, and the information therein is false both as to the officers, as to the dues collected, as to the membership, and so forth, and even though no such local actually exists and it is just a paper organization, do you have any authority now to look into that and to inquire into it and find out if it is actually a bona fide union?

27 SECRETARY MITCHELL. No, sir.

THE CHAIRMAN. In other words, if there are racketeers and hoodlums that have infiltrated into some unions, or desire to just set up a paper union and operate as such, after having filed a false and fictitious and fraudulent report to you of that organization, you cannot now under the law inquire into it even to determine whether that is a bona fide union?

SECRETARY MITCHELL. That is right, sir.

THE CHAIRMAN. And it is your practice to simply, upon the compliance in form with the law, submitting information, whether accurate or truthful or not, issue them a letter of compliance?

SECRETARY MITCHELL. That is right.

THE CHAIRMAN. Are there any further questions?

SENATOR SYMINGTON. I would like to ask this question, Mr. Secretary. I read in the papers about some locals in New York that have no members. Do you know anything about that?

SECRETARY MITCHELL. I have read in the papers about that.

SENATOR SYMINGTON. That is all you know about that?

SECRETARY MITCHELL. That is all I know about it.

SENATOR SYMINGTON. Would you care to comment upon it, that is, from the standpoint of your experience in the labor movement?

SECRETARY MITCHELL. As to the general practice, it is unusual. Certainly the great bulk of American trade unions are reputable organizations and devoted to the welfare of their members. Unquestionably there have been racketeers and hoodlums, as the chairman has said, who have latched onto labor movements for their own personal gain. I am sure that the legitimate labor organizations would welcome any assistance that Government can give them in getting rid of these barnacles.

I think that such an investigation as this committee is conducting is healthy and will be constructive if it recognizes, as I am sure it does, the fact that it is directing its attention at the racketeering hoodlum who has become a part of the labor movement against the desire and wishes of most of the trade-union leaders.

Such an investigation would be very constructive and welcomed, I am sure.

To answer your specific question, the existence of these paper locals, as you say in New York, is not a common circumstance.

SENATOR SYMINGTON. I appreciate what you say, and I was very interested in your thought-provoking remarks. But I was wondering more about the technical aspect of it. Why would you have a union that did not have members?

SECRETARY MITCHELL. Well, I don't know. There may be other purposes that the organizers of such unions have, which I do not know about.

SENATOR SYMINGTON. Nobody has more respect for unions than I have and in my opinion the workingman is benefited by belonging to a union. There would be variations to that, of course. But certainly an employer would pay more under the pressures of collective bargaining than he would as an employer without it.

I, voluntarily, in my companies, gave union shop, and checkoff, while the man had a right to withdraw the request if he put it in writing, and so forth. I am a complete sympathizer with the idea that a

28 man has a right to bargain collectively. But I cannot understand a union without members That was my point in questioning you, based on your private experience and as a Government official in this field. I was just wondering about the technical feature of having the union without members.

SECRETARY MITCHELL. One reason could be, Senator, a shakedown. The existence of a "union" might enable the racketeer who was so engaged to walk into an employer and say "I have got a union, and I represent union so and so and you can buy protection against my union if you pay me off."

THE CHAIRMAN. We have found just such occurrences, Mr. Secretary, I might say, in New York, in connection with the Government procurement of textiles and uniforms. That is what opened our eyes a bit, and I would like to comment a little along the lines of your statement that an investigation of this character, which is conducted properly, would be healthy.

Would it not also likely contribute to the discovery in existing law of those loopholes that need to be corrected?

SECRETARY MITCHELL. It would go a long way toward doing so; yes, sir.

THE CHAIRMAN. And you agree, I am sure, with this committee, that it should be the objective of the Congress who makes the laws, and of the executive officials who administer the laws, to enact laws and to administer them so as to apply equitably and fairly to all who are subject to them?

SECRETARY MITCHELL. Yes, sir.

THE CHAIRMAN. And the present law does not do that, as it is interpreted and as it is administered, in that it receives from one applicant honest and truthful reporting, and from another it may not?

SECRETARY MITCHELL. That is right, sir.

THE CHAIRMAN. And, therefore, there is an inequity that is not policed or corrected today?

SECRETARY MITCHELL. I would say so; yes, sir.

THE CHAIRMAN. And does not the very fact that some unions or officials, and a great minority, I might say, as you have emphasized, do get by with those things, become unfair and an imposition on the honest union official who reports?

SECRETARY MITCHELL. It has all of the inequities; yes, sir.

THE CHAIRMAN. And if we are going to have a law of this kind, we should have it, as I have said, such that it will apply in its terms and in its letter and spirit equitably to all who come within its jurisdiction, and it can be so administered, or have the authority to so administer it.

SECRETARY MITCHELL. I would agree to that.

THE CHAIRMAN. I wish to say for the record there has been some comment made here that good labor unionism suffers. Reflections are often cast upon the whole labor organization movement by reason of these incidents that occur. We are speaking of racketeers getting a hold or people filing false returns, and so on. It is bound to reflect upon the whole organization, and if we can eliminate that then we are actually rendering a service to the labor movement and to labor as an organization or institution. Would you agree with that?

SECRETARY MITCHELL. I agree with that; yes, sir.

29 THE CHAIRMAN. I wish to say that so far as the Chair is concerned, I echo the sentiments of every member of this committee that that is the objective of this investigation, to try to do just that, and not to reflect upon or to do any harm or injury to unions that are operating in compliance with the law, but try to reach those who are apparently beyond the pale of it now and who are taking advantage of it.

Are there any other questions?

SENATOR SYMINGTON. Mr. Chairman, I would like to say on the record that I am very much impressed with the forthright presentation of the problem as the Secretary of Labor sees it. In my opinion, that type and character of talk in the executive branch not only is an asset to labor and to business but is an asset to the country.

SENATOR JACKSON. I can understand why he was so effective in labor-management relations, which he has been in for many years.

SECRETARY MITCHELL. Thank you.

SENATOR JACKSON. I think that you are very candid and open about it.

THE CHAIRMAN. I can say for the record that the staff has reported to me that it has received complete cooperation from your Department in this preliminary inquiry, and you were kind enough to come up to my office for a conference with members of your staff. The Chair appreciates that.

Mr. Rothman, did you have anything to add to what the Secretary has said?

MR. ROTHMAN. No, sir.

THE CHAIRMAN. Thank you very much.

MR. ROTHMAN. I will be available to help at all times.

THE CHAIRMAN. Will you come around, Mr. Winkle and Mr. Barnes, please?

Gentlemen, will you be sworn? Do you and each of you solemnly swear that the evidence you shall give before this Senate Investigating Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. WINKLE. I do.

MR. BARNES. I do.

TESTIMONY OF JUSTIN F. WINKLE, ASSISTANT COMMISSIONER OF INTERNAL REVENUE (TECHNICAL); AND JOHN P. BARNES, CHIEF COUNSEL OF THE INTERNAL REVENUE SERVICE

THE CHAIRMAN. Mr. Winkle, will you state your name and your place of residence and your official position with the Government?

MR. WINKLE. My name is Justin F. Winkle, Assistant Commissioner of Internal Revenue, in charge of technical activities.

MR. BARNES. John P. Barnes, Chief Counsel, Internal Revenue Service.

THE CHAIRMAN. How long, Mr. Winkle, have you been

Assistant Commissioner of Revenue, and also how long have you been in the Revenue Service?

MR. WINKLE. I have been in the Government service since 1927, and in the Revenue Service since 1934, and I have been Assistant Commissioner of Internal Revenue in this and in other capacities since September of 1951.

30 THE CHAIRMAN. Mr. Barnes, how long have you been with the Department? Would you give a resume of your Government service?

MR. BARNES. Mr. Chairman, I have been Chief Counsel since May 9, 1955. Prior to that, from about January 1, 1928, until May of 1933, I was an attorney in the Chief Counsel's Office. It was then called the General Counsel of the Bureau of Internal Revenue. For 2 years I was Assistant Legislative Counsel of the Senate, from 1926 to 1928.

MR. KENNEDY. Mr. Winkle, under the statutes, labor unions are tax exempt; is that correct?

MR. WINKLE. Labor unions are tax exempt under a provision of the Internal Revenue Code.

MR. KENNEDY. Do you have the right under the law to audit the books of these tax-exempt organizations?

MR. WINKLE. We do, sir.

MR. KENNEDY. Could you tell the committee how often those audits take place and discuss just briefly the practical problems that you feel that you face?

MR. WINKLE. I think the practical problem that we face in this field is one associated with the volume of returns and other work the Revenue Service is called upon to perform each year, as contrasted with the resources that we have, manpowerwise particularly, to do that job. We get in a grand total of some 60 million income tax returns and a total of about 84 million returns of all varieties each year. Manifestly, it is impossible for us to audit all of the returns. Many of them, of course, require little or no audit because of the withholding system.

So that the objective of the Service is to attempt to accomplish

a balanced program of enforcement by putting its manpower to the greatest extent feasible in those areas where experience has demonstrated there is the greatest potential of tax error.

Coupled with that, we attempt to do a certain amount of work in other areas for tax enforcement purposes. As to organizations that are exempt from income tax, and the great bulk of them we feel are properly exempt since the exemptions include churches and schools and hospitals and the like, the Service is confronted in that area with the problem of how much of its manpower it should devote to exempt organizations; that is, the potential for deficiencies may certainly be there, but may not be there to the same extent that it is in the case of the ordinary taxable organization.

I think it is a fair statement to say that while we attempt to do as much audit work in the exempt-organizations area as we can, we do not do as much as we would like to if we had the resources.

MR. KENNEDY. Would you say therefore that the degree that you examine or audit tax-exempt labor unions is very small and very slight?

MR. WINKLE. I would say on a comparative basis, it is very small, yes, sir.

MR KENNEDY. Do you think it takes place at all?

MR. WINKLE. I know for a fact that there are some investigations underway right now, for example. Now, how they would stack up in contrast to the total number of labor organizations, I don't know. But to answer your question, yes, there is some of it done; but I think it would be very little in relation to the entire problem.

MR. KENNEDY. What about the question if it is brought to your attention that there was an embezzlement or misuse of union funds

31 by those in charge of these tax-exempt organizations? Would you feel that was something that would be of interest to you and that you would want to take some action?

MR WINKLE. Might I ask Mr. Barnes, the Chief Counsel, to comment on that?

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MR. BARNES. Well, there is some difficulty there in this respect: Embezzled funds are probably not income under the decisions.

MR. KENNEDY. I am talking about as far as the union itself is concerned, and not as far as the officer is concerned. As far as the union itself is concerned being tax exempt, would you take any action or would you be interested in learning that these tax-exempt moneys are going or inuring to the personal benefit of some union official?

MR. BARNES. I think we would be interested, certainly.

MR. KENNEDY. Would that have any effect on the tax-exempt status of the organization?

MR. BARNES. The regulations under the 1939 code provided and probably will provide under the new code, that one condition of the exemption of a labor union is that no part of the net income shall inure to any member. Now obviously, that is one point that we are concerned with, and that may have an effect on the status of the labor union.

MR. KENNEDY. Have you taken any action under that regulation of the Internal Revenue Code?

MR. BARNES. Not to my knowledge. I have checked within the available time, and I do not find that we have, so far as the Chief Counsel's Office is concerned.

THE CHAIRMAN. May I ask a question at that point? I think that I am clear on it in view of our conference in my office a day or two ago. If a labor union official or the union reporting on its financial report, or annual report--if the disclosure of the amount of compensation and allowances are fraudulent or false as to the officers' compensation, would you not be interested in checking the records of that labor union to ascertain the extent to which the officer was defrauding the Government on his income tax?

MR. BARNES. We certainly would, sir.

THE CHAIRMAN. Do you have that authority now to do so?

MR. BARNES. We do have authority to check under the law and the regulations.

THE CHAIRMAN. Can you get the records of the labor union for

that purpose?

MR. BARNES. If the law is followed, we think we can.

THE CHAIRMAN. Have you had any trouble in the past in getting those records for that purpose?

MR. BARNES. Yes, there is a case pending right now, at least it was decided recently by the Court of Appeals for the Ninth Circuit.

THE CHAIRMAN. Was it decided that you could get the records or that you could not?

MR. BARNES. It was decided that under the statute where the labor union resisted our proceeding in the district court to enforce the subpena issued under the revenue act, that the district court had to determine whether the records of the union which had been requested were both relevant and material to the determination of the liability.

THE CHAIRMAN. You were denied?

32 MR. BARNES. We were denied.

THE CHAIRMAN. That case I understand is, or may be, on appeal.

MR. BARNES. We hope it will be appealed.

THE CHAIRMAN. You have requested it be appealed but that addresses itself to the Department of Justice.

MR. BARNES. Yes, sir.

THE CHAIRMAN. And all you can do is request?

MR BARNES. That is correct.

THE CHAIRMAN. You do not know at this time whether or what action will be taken on the request?

MR. BARNES. No, sir.

THE CHAIRMAN. Let me ask you, if that decision stands, are you handicapped then in getting the information necessary to check on a false income-tax return under those circumstances?

MR. BARNES. If it stands, and it should be accepted by most of the courts of appeal, we would be definitely handicapped.

THE CHAIRMAN. You would be definitely handicapped?

MR. BARNES. Yes, sir.

THE CHAIRMAN. With respect to an individual, do you have the authority now to compel him to surrender his books and records to check on his income tax?

MR. BARNES. We have the statutory authority, Mr. Chairman, but there is still a doubt as to how far he is protected by the fifth amendment, the provision against self-incrimination. That question is in a state of indecision, and won't be resolved unless it gets to the Supreme Court.

THE CHAIRMAN. You may get it unless he is protected under the fifth amendment?

MR. BARNES. That is right.

THE CHAIRMAN. But, when you want the records of a firm or some other business agency to check on the amount of its payments to someone else who may have filed a false return, you do have the authority and power to get those records?

MR. BARNES. Yes, sir.

THE CHAIRMAN. There is no question about that?

MR. BARNES. No.

THE CHAIRMAN. But as to a labor union, this case that you referred to held that you could not get them but the court could make a determination as to whether they were pertinent or not?

MR. BARNES. But that would apply to any third party, from whom we were trying to get information in order to check on the taxpayer.

THE CHAIRMAN. If this court decision stands, that that is the law, as it is now, then you are seriously handicapped in making checks that you would have to make from time to time not only on individuals but also upon corporations, and labor and tax-exempt organizations?

MR. BARNES. In my opinion, yes, sir.

MR. KENNEDY. You would feel, I take it, that the tax-exempt status is a privilege rather than a right, isn't that correct?

MR. BARNES. I do.

MR. KENNEDY. And that therefore that the tax-exempt organizations such as a labor union should have a greater responsibility for making these books available when they enjoy this privilege?

MR. BARNES. Yes, sir, I do.

33 MR. KENNEDY. Is there any provision in the law, or in your regulations concerning how long these organizations have to keep their books and retain their books?

THE CHAIRMAN. That is tax-exempt organizations, you mean?

MR. KENNEDY. Yes.

MR. BARNES. The provision of the regulation is somewhat indefinite. May I read it?

"The books and records required by this paragraph shall be kept at all times available for inspection by internal revenue officers, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law."

THE CHAIRMAN. How far back do you have the right to go now, in checking?

MR. BARNES. Three years ordinarily, sir, in the absence of fraud or exceptional circumstances.

THE CHAIRMAN. Under that you say it is a little indefinite, but they should at least keep them for 3 years?

MR BARNES. That would be my own view, yes, sir

SENATOR JACKSON. You said in the absence of fraud.

MR BARNES. There is no statute, Senator, where fraud is involved, no statute of limitations.

SENATOR JACKSON. But I meant on the keeping of books, and you qualified your statement.

MR BARNES. You see, this is indefinite, and probably it would be reasonable to keep to the period of limitations that applies to the determination of tax liability.

SENATOR JACKSON. If there is fraud they would be required

to keep the books indefinitely?

MR. BARNES. Well--

SENATOR JACKSON. I am trying to reason that out.

MR. BARNES. If there was fraud, you would probably not expect them to keep the books at all.

SENATOR JACKSON. You wouldn't expect to find any books?

MR. WINKLE. That is one of the practical problems that we encounter in attempting to lay down any flat or general rule, as to the time that any taxpayer, or all taxpayers should keep their books and records.

As Mr. Barnes pointed out, normally, the Commissioner has the authority to make an assessment within 3 years, so that normally it would seem that in ordinary circumstances a 3-year retention period would be sufficient. But in view of the fact that there is no statute of limitations where there is fraud, it makes it pretty difficult to spell out a rule, a flat 3-year rule without at the same time in effect endorsing the destruction of records that might have been maintained in connection with a false return.

SENATOR JACKSON. Is there a statute now that relates to the destruction of records?

MR. BARNES. There is a penal statute, yes, sir.

SENATOR JACKSON. As it relates to that?

MR. BARNES. But as I recall, it is keyed into the regulations, Senator, and the regulations being indefinite that would apply.

SENATOR JACKSON. Have there been any decisions on this, and I am just trying to find out what the law is.

34 MR. BARNES. I am sorry, but I couldn't answer that question. There may have been.

MR. WINKLE. There are criminal penalties for willful failure to keep records or supply such information.

SENATOR JACKSON. What constitutes willful failure? Supposing the books are not available more than 3 years back. Then what happens?

MR. WINKLE. I think we would probably have to check on the decision aspect of it, Senator.

MR. KENNEDY. I have a couple of more questions. I would like to know whether you would question whether the tax-exempt status of a labor union should continue if that union refuses to turn over the books?

MR. BARNES. As a legal proposition, I would say we had the right to challenge it.

MR. KENNEDY. Would you think as a practical matter that you would challenge it?

MR. BARNES. I will let Mr. Winkle answer that.

MR. KENNEDY That you would try to examine into it and find out what the facts were?

MR. WINKLE. I think perhaps up to the time the ninth circuit handed down this decision, the normal procedure probably would have been to try to compel production as the least drastic, and perhaps in some instances the fairest, way to proceed rather than to take the summary action of revoking the exemption. I think up until the ninth circuit decision, the Service, subject to check by counsel here, probably had every right to believe that it would be able to get enforcement of its subpena rather easily by going into the district court. That would have compelled production.

Now, I think the decision of the ninth circuit does raise a question certainly as to whether that is the way to proceed in the future or whether the other approach should be taken.

MR. KENNEDY. That is something that you would definitely consider, if tax-exempt organizations refused to turn over their books to the Government, whether it is the legislative or the executive branch of the Government.

MR. WINKLE. Particularly, as I say, if the ninth circuit decision stands.

MR. KENNEDY. And it is now in existence?

MR. WINKLE. It is now in existence in the ninth circuit.

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MR. KENNEDY. The other question I wanted to ask you was this: If it came to your attention through the hearings of this subcommittee or in any other way that the part of the net earnings of these tax-exempt labor organizations inure to the benefit of some of the officials, and union officials of that organization, would that also raise a question in your mind as to whether the tax-exempt status should continue? Would you want then to make an investigation to determine that?

MR. BARNES. As a legal proposition, I would say certainly it ought to be looked into.

MR. KENNEDY. Because of the regulation that you have covering this matter?

MR. BARNES. Yes, sir.

35 THE CHAIRMAN. Are there any other questions? Do you think that we need some legislation to tighten up some of these problems?

MR. WINKLE. Do you want to comment on that, Mr. Barnes?

MR. BARNES. Perhaps I can. Of course, Mr. Chairman, you realize that so far as Internal Revenue is concerned--

THE CHAIRMAN. Just a brief statement.

MR. BARNES. Legislative policy is handled by the Treasury, and I am just giving you my own personal views. I think to provide any more police measures might be of doubtful help. That is because of the difficulty we have now doing a policing job. It seems to me that publicity and that sort of thing, which would induce or compel voluntary compliance might be more helpful, sir. That is just my own personal suggestion, sir.

THE CHAIRMAN. All right. Is there anything further?

Thank you, gentlemen.

Either of you may answer this question: What comment would you care to make with reference to an investigation of the character that this committee is undertaking? Do you think that it may result

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in some information being secured that would be beneficial and helpful to the administration of the revenue laws?

MR. WINKLE. Well, I think, Mr. Chairman, that in consideration of the size of the problem that confronts the Revenue Service, it would welcome any information from this committee or any other committee or any other source that would tend to pinpoint particular situations that would be productive of revenue or indicate that the laws had not been complied with.

THE CHAIRMAN. Thank you very much.

The committee will stand in recess until 2:15.

(Thereupon, at 12:40 p. m. Wednesday, January 16, 1957, the hearing was recessed, to reconvene at 2:15 p. m., the same day.)

AFTERNOON SESSION

(Present at the start of the afternoon session: The chairman, Senators Jackson, McCarthy, and Revercomb.)

THE CHAIRMAN. The subcommittee will be in order.

Members of the committee, we held executive session hearings this morning, at which time we heard a number of witnesses from the executive branch of the Government, representatives of the National Labor Relations Board, and of the Treasury Department.

Their testimony was pertinent to this investigation. I heard it in executive session primarily because the Chair had announced this would be an executive session, because, as you know, too, the public hearings must be by a majority vote of the committee. I had no opportunity to do that. But there is nothing in their testimony, so far as I can observe, that needs to be kept secret in any sense. Therefore, unless there is objection on the part of the committee, the Chair will make that record public as soon as it is transcribed.

I will have, I may say to the members, the staff check with the departments interested, who testified, and ascertain from them if there is anything in there they think would be adverse if made public. I do not think there is.

So if they have no objection, the Chair will proceed, without objection, to make the testimony public as soon as it is transcribed.

SENATOR McCARTHY. Mr. Chairman, in view of the fact that we have a quorum here, would it not be a good idea to entertain a motion to have open hearings tomorrow morning, as you planned on having them?

THE CHAIRMAN. If we find we need to. If you wish to, you may make the motion, that the Chair may call open hearings in this matter at a time he desires.

SENATOR McCARTHY. I then move that the Chair be given authority to hold open hearings at such time and at such place as he desires.

THE CHAIRMAN. On the subject matter of the inquiry as stated by the Chair this morning in the opening of the executive hearings?

SENATOR McCARTHY. Yes. I want to include that in my motion.

THE CHAIRMAN. Is there objection to the motion?

The Chair hears none.

The motion is adopted.

* * * * * *

TESTIMONY OF NUGENT LAPOMA, SEATTLE, WASH.; ACCOMPANIED BY COUNSEL, SAMUEL B. BASSETT, SEATTLE, WASH.

THE CHAIRMAN. Will you please state your name, your place of residence, and your business or occupation, for the record, and particularly with respect to your connection or position with any labor organizations?

MR. LaPOMA. My name is Nugent LaPoma. My home address is 7414 East Mercer Way, Mercer Island, Wash. My place of business is 552 Denny Way, Seattle, Wash. I am the secretary-treasurer of local 174; with the International Brotherhood of Teamsters.

THE CHAIRMAN. Have you given us your real name?

MR. LaPOMA. Yes, sir.

THE CHAIRMAN. Are you also known and do you at times go by

the name of George Cavano?

MR. LaPOMA. I do.

THE CHAIRMAN. Mr. LaPoma, under the rules of the committee, a witness appearing and testifying before the committee has the right, if he so desires to exercise it, to select counsel of his own choosing to be present with him when he testifies and advise him as to his legal rights.

You have, I assume, elected to have your counsel present?

MR. LaPOMA. Mr. Bassett is here.

47 THE CHAIRMAN. Let the record show that Mr. Bassett, who has already identified himself for the record, is present in the capacity of counsel for the witness.

SENATOR McCARTHY. Can I ask a question there?

THE CHAIRMAN. Yes.

SENATOR McCARTHY. What is your name?

MR. LaPOMA. Nugent LaPoma.

SENATOR McCARTHY. Mr. LaPoma, you anticipate that Mr. Bassett will be paid out of union funds, of course, for his appearing here?

MR. LaPOMA. I haven't taken that up with our executive board at the present time. I couldn't answer that.

SENATOR McCARTHY. Thank you.

THE CHAIRMAN. Mr. LaPoma, do you acknowledge this subpena as the subpena served upon you?

MR. LaPOMA. I do.

THE CHAIRMAN. Do you wish to keep it?

MR. BASSETT. Yes, we would like to.

THE CHAIRMAN. Then the exact copy of it will be placed in the record at this point.

(The document referred to follows:)

GOVT'S EXHIBIT #8

UNITED STATES OF AMERICA
CONGRESS OF THE UNITED STATES

To: Nugent LaPolma, also known as George Cavano, Seattle, Wash., Greeting:

Pursuant to lawful authority, you are hereby commanded to appear before the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations of the Senate of the United States, on January 15, 1957, at 9:30 o'clock A. M., at their committee room, 101 Senate Office Building, Washington, D. C., then and there to testify what you may know relative to the subject matters under consideration by said committee, and produce the books and records of Local 174, International Brotherhood of Teamsters, Chauffeurs, and Warehousemen, for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, correspondence files, check stubs, memoranda and minutes of meetings.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To _____
to serve and return.

Given under my hand, by order of the committee, this 26 day of November, in the year of our Lord one thousand nine hundred and fifty-six.

JOHN L. McCLELLAN,
Chairman, Subcommittee on Investigations
of the Committee on Government Operations.

[Endorsement]

December 15, 1956.

I made service of the within subpena by personal service on the within-named Nugent LaPoma, at 551 John Street, Seattle, Wash., at

9:30 o'clock A. M., on the 15th day of December 1956.

R. F. K. and C. B.

THE CHAIRMAN. Mr. LaPoma, under this subpena, you were directed to appear here yesterday, and the hearings were continued over until today. You were directed in the subpena to produce the books and records of Local 174, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled
48 checks, general ledgers, bills, invoices, bank statements, correspondence files, check stubs, memorandums, and minutes of meetings. Do you acknowledge that the subpena called for that information and those items?

MR. LaPOMA. I acknowledge the subpena, but I have--

THE CHAIRMAN. May I ask you if you were supplied this morning with a mimeographed copy of the statement the Chair made at the opening of this series of hearings, in which the Chair pointed out the purposes of these hearings and the subject matters that were under the committee's investigation?

MR. LaPOMA. I read such a copy.

THE CHAIRMAN. You read such a copy and, therefore, you understand what the committee's interest is, and the purposes of the investigation?

MR. LaPOMA. Yes.

THE CHAIRMAN. You say you received the subpena, and you are present in response thereto. Have you brought the books, records, documents, and other material called for in the subpena, to present to the committee?

MR. LaPOMA. I have a statement, Mr.--

THE CHAIRMAN. I understand you have a statement. Have you brought them?

MR. LaPOMA. No; I have not.

THE CHAIRMAN. You do not have them here?

MR. LaPOMA. No; but I have a statement--

THE CHAIRMAN. To that extent, then, you have not complied with the subpena? That is correct?

MR. LaPOMA. That is true.

THE CHAIRMAN. May I ask, Mr. Counsel, if Mr. LaPoma's statement was presented under the rules of the committee?

MR. KENNEDY. It was.

THE CHAIRMAN. Then I have no objection to your reading your statement into the record at this point.

MR. BASSETT. Mr. Chairman, could I see the subpena again?

THE CHAIRMAN. Yes.

MR. LaPOMA. My true name is Nugent LaPoma and for many years I have been known as George Cavano. My address is 552 Denny Way, Seattle, Wash. I am secretary-treasurer of Teamster Union, Local 174, which is a voluntary unincorporated association, organized as a labor union, chartered by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America (affiliated with the AFL-CIO).

The above-mentioned subpena commanded me to produce before you on January 15, 1957, at 9:30 a.m. --

> "the books and records of local 174, International Brotherhood of Teamsters, Chauffeurs, and Warehousemen, for the period from January 1, 1951, to December 31, 1955, including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, correspondence files, memoranda and minutes of meetings."

I desire to state to you my reasons for not producing any financial records or other papers or documents in response to this subpena. My reasons are: First, I am advised by counsel that in attempting to investigate Teamsters Union, Local 174, and to examine

49 the financial records, correspondence, minutes of meetings, and other documents described in said subpena, the subcommittee is proceeding in excess of its lawful authority; second, I am further advised by counsel that the language of said subpena is so broad, sweeping, and lacking in particularity as to constitute an unreasonable search and seizure under the fourth amendment to the Constitution of the United States.

THE CHAIRMAN. May I ask you with reference to this part of your statement in which you say that the language of said subpena is so broad, sweeping, and lacking in particularity, as to constitute an unreasonable search and seizure, whether you understand and know exactly what documents the committee sought to have you produce?

MR. LaPOMA. Yes.

THE CHAIRMAN. Then you do know, of course, what general ledgers, bills and invoices, bank statements, correspondence files, and cash receipts are. You know what those things are, and there is no misunderstanding on your part about the particularity of the documents the subcommittee subpenaed?

(The witness conferred with his counsel.)

MR. LaPOMA. Yes.

THE CHAIRMAN. There is no misunderstanding? Yes, there is no misunderstanding?

MR. LaPOMA. That is correct.

THE CHAIRMAN. All right.

Is the Chair to understand that you are refusing to testify and will not produce these records?

MR. LaPOMA. Yes.

THE CHAIRMAN. Mr. LaPoma, if you persist in that position, then the committee will have to weigh actions that are appropriate and which it will become its duty to take. If you do not have the records with you, I assume they are still in the State of Washington?

Are they?

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MR. LaPOMA. Yes, sir.

THE CHAIRMAN. If you do not have them with you, I realize you could not produce the records by 10 o'clock in the morning, but in deference to your opportunity to weigh what you are doing, and consider it, and receive further advice from your counsel, I am going to take the same action with respect to you that I did with the preceding witness, whom I am sure you know, Mr. Brewster--

MR. LaPOMA. Yes, I do.

THE CHAIRMAN. And I am going to give you until 10 o'clock in the morning. You will be directed to appear here at 10 o'clock in the morning, and at that time the committee will proceed to interrogate you and will ascertain definitely and finally whether you are going to comply with the subpena. Even if you refuse to proceed, the committee will interrogate you about matters that it has information about. You will be expected to answer.

The Chair instructs you to come prepared tomorrow to give us assurance that these records will be produced. You will be excused until 10 o'clock in the morning.

SENATOR SYMINGTON. Mr. Chairman, could I ask a question?

THE CHAIRMAN. Yes. And in the morning, the hearings will be public.

50 SENATOR SYMINGTON. The witness said:

"I am advised by counsel that in attempting to investigate the Teamsters Union, Local 174, and to examine the financial records, correspondence, minutes of meetings and other documents described in said subpena, the subcommittee is proceeding in excess of its lawful authority--"

and--

"I am further advised by counsel that the language of said subpena is so broad, sweeping, and lacking in particularity as to constitute an unreasonable search and seizure under the fourth amendment to the Constitution of the United States."

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I would like to ask why counsel believes the committee is in excess of its legal authority. I would like to know about that for my own information.

MR. BASSETT. I would be very happy to answer, Senator Symington.

SENATOR SYMINGTON. Thank you.

MR. BASSETT. There have been several decisions of the Federal courts which have construed the authority that this same subcommittee has, and have uniformly held that this subcommittee, under the authority granted by the statute, limits investigations to governmental activities and operations and not private activities. We deem this to be a private activity.

You may be familiar with this. One of the cases is the Kamen case, which arose in Massachusetts. That was an investigation of communism at Harvard University.

SENATOR McCARTHY. Maybe you will stand corrected. It was an investigation of communism in the radar laboratories. It was an investigation of Communists handling secret and classified material. Harvard came into it incidentally.

MR. BASSETT. Yes. Harvard University was doing some research work in connection with Government defense plants. A witness was called and he stated that he had been a member of a Communist club on the campus of Harvard University. He was then asked to identify others who were members of that club or other Communist organizations that he knew of while he was at Harvard, and he refused to answer The question for decision was the authority of the committee to require him to answer. He refused to answer that question. The court held that this committee, in putting that question, was attempting to investigate private activities, despite the fact that Harvard University was performing research work for the Government, which the Government was financing.

There are other cases like that, but I do not want to infringe on your time.

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SENATOR SYMINGTON. In other words, as I understand it, Mr. Counsel, it is not a question in your mind of the right of the Congress to go into this, but you think it is before the wrong committee; is that correct?

MR. BASSETT That is correct.

SENATOR SYMINGTON. Have you decided in your mind which is the right committee?

MR. BASSETT. No; I haven't. I have been occupied with examining the authority that this committee has.

SENATOR SYMINGTON. Would you have any idea as to which would be the right committee?

51 MR. BASSETT. I have heard it mentioned that the Labor Committee would have jurisdiction.

SENATOR SYMINGTON. Why would you think the Labor Committee would have jurisdiction over this matter?

MR. BASSETT. Because the name of that committee indicates to me that this would fall within the authority of that committee. I don't know that that committee has been authorized, but I believe it would have that authority, offhand.

There is another case, and that went to the Supreme Court of the United States, the case of the United States against Rumely. The committee there was authorized to investigate lobbying. The committee proceeded to ask questions concerning the activities of this organization with reference to the general public. They had prepared pamphlets and books and had sold them to customers. They were asked to identify the customers that purchased those books in bulk, in large volume. The chairman of that association refused to answer, and he was prosecuted.

The Supreme Court held that lobbying did not encompass activities with reference to the general public. It meant influence on Members of the Congress.

Those are clear authorities. It seems to us this committee does not have the authority

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SENATOR JACKSON. Mr. Bassett, have you had an opportunity to read the statement the chairman of the committee made this morning at the outset of the hearings?

MR. BASSETT. Yes, sir; I read that.

SENATOR JACKSON. Did you note that he made reference to the provisions in the Taft-Hartley Act requiring the filing of financial statements, and that the committee was proceeding to look into the question of whether or not there was a need for legislation?

MR. BASSETT. I noticed that; yes, sir.

SENATOR JACKSON. Do you feel the committee has jurisdiction in that area?

MR. BASSETT. No; I do not think this committee has that authority, Senator Jackson.

SENATOR JACKSON. On what theory?

MR. BASSETT. Well, under the--

SENATOR JACKSON. Under the grant of the committee--

THE CHAIRMAN. It is to study Government at all levels with a view to determining its efficiency and economy.

MR. BASSETT. Government activities.

SENATOR JACKSON. So we are studying the Department of Labor, for example, and the NLRB. The two are involved in connection with the filing of financial statements. That is, the statements are filed, as I understand it, with the Secretary of Labor, and the Secretary of Labor, in turn, must certify them to the NLRB. Any such union that is desirous of availing itself of the provisions of the Taft-Hartley Act must have a letter of compliance.

MR. BASSETT. That is correct.

THE CHAIRMAN. Has your union such a letter of compliance?

MR. BASSETT. Yes, sir.

THE CHAIRMAN. I am asking the witness. The attorney is not sworn.

(The witness conferred with his counsel.)

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MR. LaPOMA For the reasons stated, I refuse to answer.

THE CHAIRMAN. You refuse to answer?

MR. LaPOMA. For the reasons stated in there.

THE CHAIRMAN. I do not have to get it from you. I can get it from the Department down here. If you want to take that position, it is all right.

MR. BASSETT. Mr. Chairman, if you would permit me--

THE CHAIRMAN. No; I am asking the witness.

MR. BASSETT. I am not going to answer the question, but I was going to give you the reason why.

SENATOR SYMINGTON. Mr. Chairman, I would like to ask a question of either the witness or his counsel about this. In this country a man is innocent until he is proven guilty, as I understand it. But, does the counsel, based on the statement that is given the committee, realize the impression that is created when the defense is one of lack of committee jurisdiction as against analysis of the facts?

It seems to me that that is automatically generating the type of publicity that people normally do not like to have in cases of this character. I only say that in the interest of the question involved.

THE CHAIRMAN. That is a matter that is up to the witness and his counsel. I cannot take responsibility for that. I take the position that this committee, and the broad authority that it has to study government at all levels, includes the Department of Labor, the National Labor Relations Board, the Treasury Department, the Bureau of Internal Revenue, and all of those agencies, certainly, that are involved in this investigation, and that the law requires certain acts to be performed by Government upon application and compliance with the law by those who make the application.

I think this committee, beyond any question of doubt, has a right to inquire into it and see if Government is operating efficiently, if law or administrative action is needed to correct inequities or injustices, or to prevent fraudulent or improsition on the Government, which would certainly diminish its efficiency if such fraud is committed

on the Government in order to obtain certification or letters of compliance.

If this committee does not have that authority, then I do not know what is meant by studying government at all levels to determine its efficiency and economy.

SENATOR McCARTHY. May I ask a question, Mr. Chairman?

THE CHAIRMAN. Yes.

SENATOR McCARTHY. Mr. LaPoma, do I understand that if the Labor Committee served a subpena along the lines that this committee served a subpena upon you, that you will then produce the records demanded in that subpena?

MR. LaPOMA. I refuse to answer on the ground of the statement I have just read.

SENATOR McCARTHY. You say we do not have jurisdiction and that is why you are not willing to supply those records. I am just curious to know if you have some other tribunal before whom you would supply those records.

MR. LaPOMA. I refuse to answer on the ground of the statement I have presented to the committee.

SENATOR McCARTHY. Mr. Chairman, I think he should be ordered to answer that question.

53 THE CHAIRMAN. I intended to go into it fully tomorrow. We have his position today, and the Chair wishes to give him an opportunity to further confer with his counsel and come back tomorrow. At that time, if his attitude is the same as it is now, the committee will proceed according to its judgment with its duty.

SENATOR McCARTHY. Before we leave, I wish to make a statement, in view of the fact that Mr. Bassett quoted the Kamen case. I hope I can speak for the committee.

I was the man who was present during the Kamen trial. I do not believe, if this committee scrutinizes that case, they will be held bound by a two-bit lower court judge who exhibited his prejudice all through the case. For example, when the audience out in the corridor,

about one and a half corridors away from the courtroom, applauded as I walked through to get to the courtroom, the court dismissed the jury on the ground they would be prejudiced by the applause, even though they had no idea who was being applauded. Therefore, he dismissed the jury and tried the case himself, and entered a childish, illogical opinion which could not stand up on appeal to any real court of law.

I just want to let you know, Mr. Bassett, that as far as I am concerned, and I hope the committee feels the same, we are not impressed by your citing this two-bit--and that is placing the price rather high--this two-bit judge, Bailey Aldrich, from Boston.

THE CHAIRMAN. All right, sir, you may be dismissed until tomorrow at 10 o'clock. When you return at that time, the Chair instructs you to be prepared to advise the committee and to conform to directions in the subpena.

MR. BASSETT. I noticed you did not have a copy of this subpena, Mr. Chairman. I have the original now.

THE CHAIRMAN. We have a copy in the file.

Thank you very much. We have a copy in the file.

While we are waiting for the witness, gentlemen, do you see any reason why we cannot make this record public that we have been making today?

SENATOR McCARTHY. I would move that the Chair have the right to make the record public.

THE CHAIRMAN. Is there any objection to that?

I just wanted to get our bearings in this way.

Of course, we will review it first, before making it public.

* * * * * *

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VIOLATION OR NONENFORCEMENT OF GOVERNMENT LAWS AND REGULATIONS IN THE LABOR UNION FIELD

SATURDAY, JANUARY 19, 1957

United States Senate,
Senate Permanent Subcommittee on Investigations,
of the Committee on Government Operations,
Washington, D. C.

The subcommittee met at 10:20 a. m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in room 357 of the Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Henry M. Jackson, Democrat, Washington; Senator Stuart Symington, Democrat, Missouri; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Joseph R. McCarthy, Republican, Wisconsin; Senator Karl E. Mundt, Republican, South Dakota; Senator Chapman Revercomb, Republican, West Virginia.

Also present: Robert F. Kennedy, chief counsel to the subcommittee; James N. Juliana, chief counsel to the minority; Jerome S. Adlerman, assistant counsel; Ruth Y. Watt, chief clerk.

THE CHAIRMAN. The subcommittee will be in order.

(Present at the convening of the hearing were Senators McClellan, Jackson, Symington, McCarthy, Mundt, and Revercomb.)

THE CHAIRMAN. The Chair wishes to announce as we resume public hearings that in the interim since yesterday at noon when we recessed, the committee has heard a number of witnesses in executive session, witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry and testimony that indicates conditions prevail that are of interest to the Congress in its investigation of Government operations with respect to its efficiency and economy.

GOVT'S EXHIBIT #8

Some of those witnesses may have testified reluctantly under some apprehension as to what might happen to them if their testimony should be revealed. The Chair took occasion during that executive session to instruct those witnesses that they remained under the cognizance of the committee, under their present subpena, and they are likely to be called to testify in public.

The Chair instructed them that if anyone attempted directly or indirectly to intimidate them or coerce them or threaten them in any way, they should report that to the committee at once and the committee would take appropriate action thereon.

I think that is a proper attitude for this committee to take toward those witnesses whom it subpenas and who give pertinent and vital testimony to the subject of this inquiry and under compulsion of a
196 subpena. That is the rule of the committee, and we will try to observe it if the witness will cooperate with us if any such attempt at intimidation or coercion or any threats are made against them.

The first thing the Chair wishes to do is to insert in the record at this point a letter received this morning from Mr. Kenneth C. McGuiness, General Counsel of the National Labor Relations Board, in response to a letter written by the committee and to the Secretary of Labor on January 8, 1957, requesting certain information regarding a number of labor organizations including the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Joint Council 42, Los Angeles, Calif., and also the Western Conference of Teamsters, Seattle, Wash.

The letter will be printed in the record at this point and the documents submitted along with the record, photostatic copies of official documents now on file with the National Labor Relations Board and the Department of Labor--all the documents submitted with the letter will be made exhibit No. 22 for reference.

(The documents referred to were marked "Exhibit No. 22" for reference and will be found in the appendix on p. 292.)

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THE CHAIRMAN. The letter, among other things, states:

"Your letter of January 8, 1957, addressed to Boyd Leedom, Chairman, National Labor Relations Board, requested certain documents and information pertaining to compliance status of named union organizations. Of those organizations named, we find that the following have no compliance documents on file with us."

That includes the two unions and the two organizations I have mentioned and others that are listed in the letter.

(The letter referred to follows:)

Hon. John L. McClellan,
Chairman, Senate Permanent Subcommittee on Investigations,
United States Senate, Washington, D. C.

Dear Senator McClellan: Your letter of January 8, 1957, addressed to Boyd Leedom, Chairman, National Labor Relations Board, requested certain documents and information pertaining to the compliance status of named union organizations.

Of thos organizations named we find that the following have no compliance documents on file with us:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Joint Council No. 42, Los Angeles, Calif.
Western Conference of Teamsters, Seattle, Wash.
Joint Teamsters Building Association, Portland, Oreg.
Joint Teamsters Building Association, Seattle, Wash.
Joint Council No. 28 Promotional League, Seattle, Wash.
National Trade Division of Laundry, Linen, and Dry Cleaning Drivers, Seattle, Wash.
Joint Council No. 28 Legal Fund, Seattle, Wash.
Joint Council No. 28 Legislative Funds, Seattle, Wash.
Joint Council No. 28 Donation Funds, Seattle, Wash.
Joint Council No. 43 Public Relations Division, Los Angeles, Calif.
Western Line Drivers Association, Los Angeles, Calif.

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For the following organizations we attach hereto the documents requested, viz, NLRB forms 1080 and 1085 which were current as of December 31, 1955:

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Washington, D. C.

Teamsters Joint Council No. 28, Seattle, Wash.

Teamsters Joint Council No. 37, Portland, Oreg.

Local 174, Teamsters, Seattle, Wash.

Local 472, Inside Brewery Workers, Warehousemen and Helpers, Seattle, Wash.

197 International Union, Allied Industrial Workers of America, AFL-CIO, formerly United Automobile Workers, AFL.

Local 223, Teamsters, Portland, Oreg.

Local 324, Teamsters, Bend, Oreg.

(You requested Local 324, General Teamsters, Salem, Albany, Corvallis, Lebanon, Newport, McMinnville and vicinity, Oreg. We have wired requesting the material on local 324 and will deliver it to you as soon as it is received.)

Local 618, Automotive, Petroleum and Allied Industries Employees Union, Teamsters.

(You ask for National Automotive, Petroleum and Allied Trades Division, St. Louis, Mo. You gave no local number. We assume that we are correct in sending the attached, having found no other organization with a similar name.)

Local 961, Line Drivers, Teamsters, Denver, Colo.

Central Conference, St. Louis, Mo.

As to Local 227, Allied Industrial Workers of America, we attach a copy of a complete memorandum from our New York office. No photostats were supplied, but the information which would have been on such photostats if attached will be found in the memorandum in parentheses.

Southern Conference of Teamsters filed originally with us on March 30, 1956, and therefore there are no documents which were in

GOVT'S EXHIBIT #8

effect as of December 31, 1955.

This, I believe, covers the organizations listed by you concerning the photostats requested. We are presently compiling information on those organizations which have filed with us covering their officers from January 1949 to December 1956, and will supply you with this information within a week.

Sincerely yours,

Kenneth C. McGuiness,
General Counsel.

* * * * * *

211 TESTIMONY OF FRANK W. BREWSTER, CHAIRMAN, WESTERN CONFERENCE OF TEAMSTERS, SEATTLE, WASH., AND PRESIDENT OF JOINT COUNCIL NO. 28, SEATTLE, WASH.; ACCOMPANIED BY COUNSEL, SAMUEL B. BASSETT, SEATTLE, WASH.

* * * * * *

227 SENATOR ERVIN. Is it not a fact that it is one of the chief objects of the Western Conference of Teamsters to promote sound public relations?

(At this point Senator McCarthy entered the hearing room.)

(The witness conferred with his counsel.)

MR. BREWSTER. I decline to answer for the same reason that I have given.

228 SENATOR ERVIN. You did answer that when you put this statement into the record, did you not?

MR. BREWSTER. I decline to answer.

THE CHAIRMAN. The witness is ordered and directed to answer.

SENATOR ERVIN. I just want to ask you this question--

THE CHAIRMAN. Wait a moment. The witness is ordered and directed to answer the question. He waived his right not to answer it. Since he made it in his statement, we have a right to interrogate about it.

(The witness conferred with his counsel.)

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MR. BREWSTER. I refuse on the same grounds.

THE CHAIRMAN. The Chair orders you and directs you to answer for the reasons that the Chair has given.

MR. BREWSTER. I respectfully refuse for the same reason.

* * * * *

EXCERPTS FROM TRANSCRIPT, VOLUME IV

[THE FOLLOWING EXCERPTS OF PROCEEDINGS OF 1/10/57 BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS ARE REPRINTED HERE FROM THE ORIGINAL AND APPEARS AT PAGES 454-501 OF THE TRIAL TRANSCRIPT, AS READ INTO THE RECORD BY MR. PICKENS]

S. Tr. 1

EXECUTIVE SESSION - CONFIDENTIAL

PRE-ORGANIZATION MEETING OF THE SUBCOMMITTEE ON INVESTIGATIONS

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THURSDAY, JANUARY 10, 1957

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United States Senate,

Senate Permanent Subcommittee on Investigations of the Committee on Government Operations

Washington, D. C.

The Subcommittee met at 4:15 p.m., pursuant to Senate Resolution 188, agreed to February 16, 1956, in Room 137 of the Senate Office Building, Senator John L. McClellan (chairman of the subcommittee) presiding.

MEMBERS OF THE SUBCOMMITTEE PRESENT:

SENATOR JOHN L. McCLELLAN, Democrat, Arkansas
SENATOR HENRY M. JACKSON, Democrat, Washington
SENATOR STUART SYMINGTON, Democrat, Missouri
SENATOR SAM J. ERVIN., JR., Democrat, North Carolina
SENATOR JOSEPH R. McCARTHY, Republican, Wisconsin
SENATOR KARL E. MUNDT, Republican, South Dakota

MEMBERS OF THE PROFESSIONAL STAFF PRESENT:

ROBERT F. KENNEDY, Chief Counsel to the Subcommittee
JAMES N. JULIANA, Chief Counsel to the Minority
JEROME S. ALDERMAN, Assistant Counsel
CARMINE BELLINO, Accounting Consultant
RUTH Y. WATT, Chief Clerk

S. Tr. 2

PROCEEDINGS

THE CHAIRMAN: I called this more as a conference than as an executive session. I thought that I would not undertake to hold any meeting of the committee officially until we were organized because you folks are shy one member.

(Members of the Subcommittee present at the convening of the meeting were Senators McClellan, Jackson, Ervin, McCarthy and Mundt.)

SENATOR McCARTHY: Do you want to take this down?

THE CHAIRMAN: It does not make any difference, but you can take everything down. Whatever we do here will not be official but it will serve as guidance, and that will be the purpose of it.

Now, there are two things and they are related, that I want to discuss with you. During the recess period of Congress, growing out of testimony that we had heard in the course of our inquiry into procurement services of the military and other information that came to the staff in that connection, it indicated that there was a pretty nation-wide condition with respect to labor racketeering and so forth.

Under the authority I think I have under the rules, I told the staff to pursue it and get us some preliminary information on it. In the meantime, in some areas it became pretty hot and we issued some subpoenas for records. There were a couple of banks and one labor organization.

S. Tr. 3

Now, I am trying to remember and if I get off the track, Bob Kennedy will correct me. We have that and they are returnable on the 15th. In the meantime, the labor union went into State court and enjoined the banks from conforming to or responding to the subpoena. The banks went in court on the day set for the hearing and the courts dissolved the injunction and so the banks are free as of now to comply with the subpoena.

Now, I believe the judge, however, gave the contestants or the movers for the injunction until the 11th, is that right, to take action in the Supreme Court.

MR. KENNEDY: Until tomorrow, Senator.

THE CHAIRMAN: The banks are pretty confident, at least their attorneys are, that they cannot get any relief. Anyway, we have a witness or two coming and they are supposed to produce some records. The banks, I am confident, will comply. They may have to have some additional time in view of what has happened. Of course, I would not want to work any imposition on them if they are in good faith trying to comply. From their telegrams and so forth to me, I have no reason to think they are not perfectly willing.

Now, in the meantime, this having developed, I realize, and I have said to Bob at all times, that if we go into this thing -- and by way of aprenthesis at this point I may say whether this committee does it or not, whatever action we take there is a terrific job that needs to be done in this field.

S. Tr. 4 In the meantime, I said to Bob that if we go into it, I would want to get some additional authority from the Senate to broaden our powers to make certain that there will never be any question of jurisdiction. I can appreciate and I have said to Bob all along that in some areas I think we would have jurisdiction and in other areas it would be on the borderline. In others you may be beyond the jurisdiction of this committee entirely.

Just before the conclusion of the last session of Congress, and I do not remember the dates but it was sometime in July, Senator Ives introduced a resolution asking that the Labor Committee or subcommittee thereof, be authorized to investigate racketeering in labor organizations. That is the substance of it. It may go a little further. But that is the substance of it.

By reason of the court action taken out on the west coast and other publicity that was given to it out there, it got around to the press that we were looking into these things. We had made these subpoenas

returnable for the 15th. In the meantime, I had instructed the staff, before I knew Senator Ives was going to introduce a resolution, to prepare an appropriate resolution broadening our authority and asking for additional money so that we could do a real job.

Now, about the day before, I think, I introduced my resolution, or the day before that, I heard from the press that Senator Ives was going to introduce his resolution again and he did. He said to me that

S. Tr. 5

he thought probably both committees had jurisdiction or some jurisdiction or something and since he had started last year at that time he said he was going to follow it up and he felt that he had to do it. He said he hoped something could be worked out.

Well, I told him that we would be glad to talk about it later, but I was going ahead and introduce mine. In the meantime the Vice President, sensing the situation and without taking sides, has suggested, and it was entirely satisfactory to me, that he just hold both resolutions on the desk without referral until some of us could talk about it.

Now, there are two things. First, I want to get our bearings on this hearing. It is executive and I think I have a right to call for an executive session to hear a witness and get documents as a preliminary inquiry. I think we will want to hear them in executive sessions but there may be testimony developed and it may become valuable to move into public hearings in order to get before the public some of the things that are really at issue in this thing.

If we just have an executive session then, of course, it would be presumed to be executive and, of course, something might leak out from it. But for the very purpose of pointing up the need it may be well after we hear then in executive session to bring it out in the open.

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S. Tr. 6

THE CHAIRMAN: So now I wanted to discuss two aspects with you.

First, these hearings and then I will let Bob tell you some of the information that he expects to develop. Next, I wanted to discuss with you the idea of this committee situation. I do not know what would happen if you just put it up to a fight on the floor of the Senate. I do

not have any idea which way the Senate would go, whether they would tell this committee to go ahead and do it, or whether they would turn it over to the Labor Committee and give them authority to hire a special staff. I do not know. I have not lobbied either way about it.

Another suggestion has been made that we try to work out something in the nature of a special committee or joint committee composed of members of the two committees and proceed that way. So I wanted
S. Tr. 7 to give you this picture and just sit here and talk about it and get your ideas.

Now, Bob, I think that maybe next you should kind of brief us..

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THE CHAIRMAN: Let us hear Bob now, and that is something that we can weigh. I want you to hear his report on it to get our bearings as to whether it would be advisable to postpone this executive session or proceed with it. Now, Bob, gives us your report.

MR. KENNEDY: First I might tell you how we got into it. When we got into this procurement program up in New York in dealing with all of these bonds that were purchased, some of them in fictitious names, we received information from a reliable source that would not
S. Tr. 8 allow himself to appear as a witness because of fear of his own life, that a lot of these bonds that were purchased in these fictitious names were paid and given to gangsters in the New York area.

We heard that the Government made contracts with Kravitz and Joey Abrams and that combine and that they in turn farmed these clothes out to non-union shops in Pennsylvania and New Jersey, that these non-union shops were actually run by union officials, crooked union officials, and by gangsters from the waterfront. We heard that these people had a great deal of cash that they had made during the war and during the '40s which they wanted to get rid of and that they would pay their employees in the non-union shops with cash, that they would be provided with body-guards and so on and hoods that would guard the non-union shops from the waterfront whom they would also pay in cash.

We heard that Kravitz and Abrams would send their clothes, unknown to the Government over there, or materials and they would make these uniforms. That they would then get paid for the uniforms with these bonds that they would purchase in these fictitious names. This gave the gangsters and these other groups a greater return. They got rid of their cash and got something that was a little better for them, so it was very attractive.

One of the groups that was specifically named to us were the Dios, Johnny Dio and his brother, Tommy Dio. It was also reported that the people that were running these places were operating out of Local 102
S. Tr. 9 of the International Ladies Garment Workers Union, a fellow by the name of Sam Berger who operates and has a very close relationship with Johnny Dio.

In view of that we had the Dios down as well as Vimberger, and as well as five or six other people that were supposed to be involved with them. During or just before this, the acid was thrown in Reisel's eyes. We had conferences with the District Attorney at that time and he said that they had Johnny Dio under suspicion and they felt he was perhaps responsible and that if we investigated or went into this too much, that it might affect their case, which of course was far more important.

In view of that, we did not pursue it as far as open hearings or going into that aspect of it anymore. They said that, as to the general relationship or the situation up there as far as the garment situation and the teamsters situation, they had no objection to us looking into it and they have cooperated with us.

After they indicted Johnny Dio we were in touch with them again and they said that they felt there was no objection to us going into it at this time and going into this general picture. When we got into Johnny Dio we got into Jimmy Hoffa, who, of course, operates out of Detroit and the general idea of the Teamsters and the relationship with this same Berger who individually is associated with the ILG.

The greatest problem in union fields throughout the country seems to center around the Teamsters. All of the best union officials admit

S. Tr. 10

that. When we got into the Dio-Hoffa relationship, we got into these five or six locals that were formed in New York during the period of 1951 through 1953. They were formed by hoodlum friends of Johnny Dio who first made up one group who went under the UAW, AFL which is in contrast to the UAW, CIO. They operated there for almost the sole purpose of going in and shaking employers down and going to an employer and saying, "We will picket your place or cause trouble unless you come in and become a member."

THE CHAIRMAN: Is that what you call a paper local?

MR. KENNEDY: It only exists on paper and there might be only three or four people that operate it. They do not have any members at all. They would just go to a place and say, "We want to organize you. Either you get organized or you are going to have to pay us a sum." It would be cheaper, they felt, to pay the money.

THE CHAIRMAN: It is a form of extortion.

MR. KENNEDY: That is right. They went in and organized places where there were no employees, for instance, where somebody ran his own business and we have instances where they would go in and just get the one man to come in and make a payment to them even though he was running the business himself and had no employees.

They operated like that. There was then an arrangement made in 1955 because of the voting in New York City. It was a question

S. Tr. 11

of whether the hoodlums were going to take over the Teamsters in New York City or whether the good part of the Teamsters were going to rule in New York City. The better part was controlled by a fellow by the name of Hickey and the other side was controlled by a fellow by the name of O'Rourke. Under Hoffa's leadership, these six unions that had been formed by Dio were then brought into the Teamsters in New York City in order to give the extra votes to throw the election to O'Rourke.

At that time, the District Attorney put out an announcement that these unions were hoodlum-run and this whole arrangement was organized by the underworld in New York City.

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THE CHAIRMAN: I think that we might get into areas where they would say it did not relate to Government to do the job, and so there would be no question I think it should be broadened.

S. Tr. 12

Now, second, suppose we do? I want to be very frank with all of you. Suppose we do try to work out something now for a joint committee of the two committees? Assuming we do that now, I am going to be a little bit frank and I do not care if it goes on the record, but I have given some thought to it and I am not averse to doing it but I would not want to enter into any kind of an arrangement like that or agree to it where I thought that we were going to lose responsible control of it. Because I will not be a party to this, as a member of a committee or anything else, unless I think that they are going in there and really do a good job.

As I see it, as I said to you this morning, Joe, I do not see any partisanship in the thing. There is a job that ought to be done and it is all right if they are willing to set up a joint committee and not stack it with folks that might be inclined to just ease through it because I do not relish this and I think it is going to take a lot of intestinal fortitude for any of us that serve on this committee to stand up there and take the gaff.

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S. Tr. 15

SENATOR McCARTHY: Before you leave, may I say this? I think that in view of the fact that the staff of this committee has engineered this and they have been working on it and they finally hit pay-dirt, it just does not seem right that another committee

S. Tr. 16

would barge in. I frankly would be in favor of fighting this out on the Senate floor on the question of which committee has jurisdiction. I think we would prevail. We have done all of the spade work and we are ready to go ahead and I think that we should get started as soon as possible on it.

If, however, the chairman feels that that would not be advisable, then I certainly would go along with the idea that the chairman of the investigating committee and the chairman of the Labor committee assign their men to this on condition that our chairman would be the chairman of this committee so we could retain control.

I think Bob and his staff have this stuff right at their fingertips and I do not think that we should turn it over to new men to do that job.

THE CHAIRMAN: I said to Bob that I would expect him to take charge of this if I am going to serve on it and have any responsibility. I do not want to go out and bring in some new men that I do not know to take over the work we have done up to now. But we do not want to disintegrate the other work of our committee and I would just put O'Donnell in charge of that temporarily until we could go on with this. That was my idea about it.

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S.T.r. 17

MR. KENNEDY: We were talking about the fact that Hoffa, who was in charge of the Central Conference of Teamsters, was anxious to get control of the East. He is the man who has charge of the Sourhtern Conference of Teamsters as of this time. So there was this dispute back in 1955, the end of 1955, and there was going to be a very close vote in New York between a fellow by the name of Lacy, who was Hickey's man and a fellow by the name of O'Rourke, who was Hoffa's man. They brought these six locals into the Teamsters in December of 1955 and it was their votes that were going to put O'Rourke, Hoffa's man, over.

They had a preliminary vote and it looked like O'Rourke was elected and then they brought him into court and they threw these six local unions out on the grounds that they were hoodlum-run and paper locals and that they were not brought into the Teamsters in a proper manner.

It seems that Hoffa had come down and made a special arrangement with a certain person in the International Brotherhood of Teamsters here and went over the heads of the people in New York and got even these six locals brought in.

So it was in a state of confusion during the period of the past year.

S. Tr. 18 Within the last two or three days, it has been announced that there is not going to be any contest this year, that the Lacy-Hickey group is conceding to the Hoffa-O'Rourke group and that O'Rourke will take over that leadership in New York on February 19th and, therefore, Hoffa will get control over that area.

Now, Hoffa has been in a number of different business transactions which have been already exposed by another Congressional committee, which show that he has been in the trucking business and he is negotiating with himself, for instance. His relationship with hoodlums in the New York area and in Las Vegas and out in California has been very close and he relies to a great extent on underworld characters.

There is an exception which is the exception down in St. Louis where he operates with a man who is a bright star in the Teamsters, a fellow by the name of Gibbons, but beyond that most of his relationship has been with underworld characters.

SENATOR McCARTHY: How does Dave Beck fit into this?

MR. KENNEDY: He is the International President of the Teamsters. The hearing that we will have on Tuesday involves him and I will get into that aspect of it.

SENATOR SYMINGTON: And maybe Wednesday.

MR. KENNEDY: And maybe Wednesday.

We had received information some while ago that the Teamster officials were mis-using union funds not only in the welfare funds, but

S. Tr. 19 their actual union funds. And there was a peculiar relationship with a man by the name of Nat Shefferman who operated out of Chicago, who was a labor consultant very close to management and particularly close to department stores throughout the country.

Through Nat Shefferman the Teamsters supposedly had gone into various areas to break legitimate strikes by other unions such as the retail clerks union. We heard that the reason for this was because of a very close relationship between David Beck and Shefferman. We also

had information that the union funds have been used out in Seattle to pay the personal bills of David Peck and that they had also been used to pay the personal bills of the Vice President of the Teamsters out there, a fellow by the name of Frank Brewster who is also President of the Western Conference of Teamsters.

We started to investigate that and we subpoenaed the records of Nat Shefferman and we found that he had made thousands upon thousands of dollars worth of purchases for David Beck through his office. There are indications and information based on his conversations with us and then an interview that we had with Frank Brewster that Shefferman was paid by the Western Conference of Teamsters.

SENATOR McCARTHY: What type of purchases?

MR. KENNEDY: He bought lawn mowers, washing machines, television sets, and he bought the furniture for his house and he bought
S. Tr. 20 the gardening tools and clothing and rugs and everything, all silverware. We have all of the bills. They show that all of these purchases were made. Some of them were also made for Frank Brewster and there were others made for the head of the Local 174 out there. There were others made for many of the union officials here in Washington. We have information indicating that those purchases were paid for out of union funds.

We have gotten the bank account of Dave Beck and we have found that his bank accounts, at least, do not indicate that he paid for the purchases through the bank accounts. In addition, the house that he recently sold to the union for $162,000, which the union permitted him to continue to live in there, I talked to the contractor of that house and the money for that house came to Dave Peck and the money when he sold the house to the union came to Dave Beck.

Talking to the contractor, he said that he had done some work on the constructing of the house and also in making additions and improvements in the house. I asked him who had paid for that, whether he had been paid by Dave Beck or by the unions funds and he said that he was paid by both. That is, both Dave Beck and union funds. The next

conversation I had with him he said that his lawyer indicated that he was going to have to take the Fifth Amendment when he appeared before the committee.

SENATOR SYMINGTON: Could I ask a question. What was the value of the house?

S. Tr. 21

MR. KENNEDY: Initially, the house that he sold was $162,000.

SENATOR SYMINGTON: Excuse me. Who sold it?

MR. KENNEDY: Dave Peck sold or had this house which he had supposedly built himself. He sold that house to the Teamsters for $162,000.

SENATOR SYMINGTON: What did it cost him? Do you know?

MR. KENNEDY: I do not know how much it cost him initially but that is what he said the value of the house was and he also made arrangements to sell the furniture in the house. Now, the furniture in the house had been purchased from Nat Shefferman, who in turn had been paid by the Union.

SENATOR McCARTHY: Do you have any idea what the actual value of that house was?

MR. KENNEDY: No, I do not.

SENATOR SYMINGTON: That is what I was trying to find out.

SENATOR McCARTHY: It is important to find out whether he over-charged.

SEMATOR SYMINGTON: Would the contractor know that?

MR. KENNEDY: He will not talk to us anymore.

SENATOR JACKSON: The income tax will show any capital gains.

THE CHAIRMAN: But these other things were not reported on the income tax.

MR. KENNEDY: We cannot find any indications that he reported any of this, that he reported any of the purchases that were made by the union.

S. Tr. 22

SENATOR JACKSON: What I meant, was when he sold the house.

MR. BELLINO: It should be on the tax return.

THE CHAIRMAN: How many different officials in the union, Bob, did this Shefferman purchase for out of union funds? How many do you have?

MR. BELLINO: At least 75 various union officers.

MR. KENNEDY: We do not know that they had all of their purchases paid for by the union. He did all of this.

THE CHAIRMAN: He did all of the purchasing?

SENATOR SYMINGTON: Who again is Shefferman?

MR. KENNEDY: He is a labor relations man who is known as a strike breaker among other unions.

SENATOR JACKSON: Will you clarify one thing there? Do I understand that it is Shefferman who had made these purchases for these various individuals?

MR. BELLINO: At discounts.

SENATOR JACKSON: Through various companies or something and get discounts and then the union would pay for them? Did the union reimburse Shefferman, is that right?

MR. KENNEDY: That is the information that we have. At least in our conversations, this is the way that it looks. We find first that Beck, from his bank accounts, did not pay for any of those things. We checked that.

SENATOR JACKSON: Did he turn over his bank accounts?

S. Tr. 23 MR. KENNEDY: We were able to get those for some reason. But now the story really will be told in the bank accounts of the Western Conference of Teamsters, Local 174 and the other Teamsters union out there.

THE CHAIRMAN: Those are the bank accounts we have subpoenaed?

MR. KENNEDY: Those are the ones that they have but the State court has stepped in and said we could not have. Now, in addition we will get that information either from the bank accounts or we will get the information from the union's own accounts and they will refuse to turn those union bank books over to us, based first, on the fact that

there is the Fourth Amendment and they say that we knew of these purchases during this period of time. We said that we wanted their books or their financial books in connection with all of these financial transactions. They say that we should come in and have told them what particular transactions we are interested in.

So, therefore, we should come to them and say, "We want all of the transactions in which you mis-used union funds," which of course is ridiculous. We have enough information, both on Beck and Brewster now we feel, so that we can go in and request the books to find out how else they mis-used union funds.

We know, for instance, from the Internal Revenue Department and this they made public, that Brewster used $4,000 of union funds to build his home down in Palm Springs and that he paid his people that handled his horses out of union funds, and that this Brewster who is in charge of the Western Conference.

S. Tr. 24 So we have a good deal of information indicating that they have been using these unions funds for their own personal benefit. We have jurisdiction on this -- first, the unions are tax exempt and, therefore, they do not have to pay any taxes. If they are mis-using union funds that would be an indication that a tax-exempt organization has been tax exempt improperly.

THE CHAIRMAN: Using tax-exempt funds for personal use.

MR. KENNEDY: Yes. The second thing, and this I think is the most important thing if we are going to get into an argument on Tuesday we understand that they have to file with the Labor Department a statement as to their finances in order to use the National Labor Relations Board. We have been in touch with the Labor Department and we find that they have filed, but that under court decisions the Labor Department feels they are precluded from finding out whether these financial reports are accurate or inaccurate.

THE CHAIRMAN: They have to accept them as filed?

MR. KENNEDY: That is what they said. It is the same way with the Communist Affidavit for instance, and I think Jim Juliana

knows more about this than I do. Ben Gold of the Fur Workers filed an affidavit saying he was not a Communist. Three days later he went out and made a speech and said, "I was a Communist before and I have always been a Communist." Nevertheless, under the court decisions or how the law is written at the present time, even though they know that is false and that Ben Gold is a Communist, they have to go ahead and negotiate with him as if he filed a proper certificate and that he was not a Communist. The same thing applies for these finances.

S. Tr. 25

THE CHAIRMAN: Now, these financial statements they filed are required to reflect the total compensation they pay their officers?

MR. KENNEDY: That is right.

THE CHAIRMAN: Now, do you know that they do not reflect these excess payments?

MR. KENNEDY: That is what we believe, Senator.

SENATOR McCARTHY: Could I ask you this: Just what are the mechanics of getting the money out of the union funds? Do they have a treasurer?

MR. KENNEDY: This is what we asked Frank Brewster. He said that Frank Brewster and Dave Beck sign the checks. He said he signed the check --

THE CHAIRMAN: Brewster said that:

MR. KENNEDY: Yes, and then turned them over to Dave Beck and he never knows what Dave Beck did with them. He said on one occasion he was shown a check with Shefferman's name on it for $8 or $9 hundred and I asked him if Shefferman ever did any work for the union that would warrant him being paid that money and he said, no.

SENATOR JACKSON: How much was he paid?

MR. KENNEDY: On this particular check that he saw, $800 or $900.

S. Tr. 26

SENATOR JACKSON: Shefferman?

MR. KENNEDY: Yes. We have the information indicating that it amounted to approximately $20,000 each year. That is, for about three or four years.

SENATOR JACKSON: They are going to claim that he is hired by the union or something?

MR. KENNEDY: No, they say he was not hired by the union.

SENATOR JACKSON: How are they going to justify the payments to him?

MR. KENNEDY: They cannot.

SENATOR JACKSON: Are their checks payable directly to Shefferman?

MR. KENNEDY: If we get into the bank accounts we have reason to believe that those checks are there.

SENATOR SYMINGTON: What is a sleeping coat?

MR. KENNEDY: We are not experts on that part of it.

SENATOR SYMINGTON: All I can say is that there is a pretty good price.

SENATOR ERVIN: I contrasted it with my pajamas.

MR. KENNEDY: I was saying there were certain parts that we have jurisdiction over and certain parts that we do not. I think on this particular side of the dealing with union funds, because it is a tax-exempt organization and because of the fact that they have to file with the Labor Department, we would have jurisdiction because it is a question of whether the law is properly written at the present time. For instance, the Western Conference of Teamsters does not have to file or supposedly does not have to file or at least it did not file. It is a question of whether it should have filed, whether the Labor Department had been derelict in its duty to make sure that it did file.

S. Tr. 27

Now, it was clear in the legislative intent that it was to prevent Communists in labor organizations from operating and that also people should file accurate financial statements. If they can get out of that by going into intermediate bodies such as the Western Conference of Teamsters and steal from there and then get out and never file, there is something wrong with the law.

In addition, there is something wrong with the certificate, the fact that Labor Department has to recognize this man when he files

and says he is not a Communist and then makes a speech admitting that he is a Communist, the same as the provision here that they have to recognize.

SENATOR JACKSON: Why doesn't the Justice Department prosecute him criminally?

MR. KENNEDY: They will, but that is not sufficient because it still leaves the Labor Department and they are themselves prevented from taking any action. Even if the man is indicted and convicted, Senator, it is not sufficient. They still have to recognize it.

S. Tr. 28 THE CHAIRMAN: Let me ask you this: You have talked to Mitchell, have you not?

MR. KENNEDY: Yes, sir.

THE CHAIRMAN: Has he indicated his willingness to cooperate?

MR. KENNEDY: Yes, he is very anxious.

THE CHAIRMAN: You talked to Meany, did you not?

MR. KENNEDY: No, I did not. I talked to the people down there.

SENATOR JACKSON: Which Mitchell?

MR. KENNEDY: The Secretary of Labor. At least it seems to us that we do have jurisdiction on this aspect of it. It would be well if we could get into an open hearing Wednesday.

SENATOR ERVIN: On some of these other things I do not believe that we would have jurisdiction, but in this one, you would.

THE CHAIRMAN: This is the issue before us next Tuesday or Wednesday. Again, they are in contempt if they refuse.

MR. KENNEDY: They are going to say we do not have jurisdiction or refuse because of the Fourth Amendment. The International Brotherhood of Teamsters as well as any other teamsters unit now has indicated that they will not cooperate at all with us. They will not furnish us any information of any kind. We have difficulty in operating with them.

SENATOR McCARTHY: Might I suggest before I leave -- and I have got to go. I have an appointment at 5 o'clock -- that, if it would be agreeable to Senator Symington even though he cannot be here

Tuesday, why would it not be a good idea to hold the executive session,
S. Tr. 29 Tuesday and then if there is some meat there hold an open session Wednesday when Senators Symington and Jackson and the boys can be with us.

THE CHAIRMAN: I wanted you to be prepared if we find we need to go into open session, but I do think this: I think we should have an executive session first so as not to let them make a big horseplay in public until we know what the story is. Then, we can move into public hearings and only concentrate on that which we know we want to bring out at the time.

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SENATOR McCARTHY: My thought would be, Senator, that as far as the executive session was concerned, with the Chairman in charge of it, we could easily determine whether or not there was something there and take it up with you and have an open session Wednesday, when you all could be there.

MR. KENNEDY: Again on the question of jurisdiction, and now remembering this is a tax-exempt organization, this is the affidavit that the agent for the Internal Revenue filed, and they have not turned over the books and refused to turn over the books even to the Internal Revenue Department. * * * *

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S. Tr. 30 THE CHAIRMAN: Is that satisfactory to set it for Wednesday?

SENATOR JACKSON: Yes.

THE CHAIRMAN: We will set it fixed and fast for Wednesday, then.

SENATOR JACKSON: I will be there.

THE CHAIRMAN: I would like to have the full committee if we can.

SENATOR JACKSON: I think we ought to be there for the first witness. That will be in the morning.

THE CHAIRMAN: That is 10 o'clock Wednesday morning, and I am going to call the full committee together Monday, to get organized

and get your new man appointed and whoever you have you can brief him on this, Senator McCarthy beforehand.

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511 MR. PICKENS: I do not intend to read anything other than a question or an answer given by the manager of the Bill. Unless some other Senator asks Senator LaFollette a question.

So there is no question that I am going to read anything that involves an ordinary member of the Senate who wasn't a member of the Committee or who wasn't managing the Bill.

MR. HITZ: If you skip, will you note a skip?

MR. PICKENS: If I skip, I will note, yes, sir.

This is in the third column, Page 6365; and I am skipping the first two paragraphs.

"Let me make it clear at the outset..." This is Senator LaFollette.

"...that there is no intention to invade the purely and strictly administrative functions of the executive branch. However, as all Senators know, because of the complexity of our modern society it has become necessary for the Congress to delegate to the various departments and agencies of the Government powers for making rules and regulations in order that they
512 may carry out in detail the intent of Congress as provided in the enabling legislation."

Now, this is important, this paragraph that follows:

"To this end this measure proposes . . ."

And he is speaking of the Legislative Reorganization Act of 1946.

"...this measure proposes that the reorganized committees of the Senate shall be charged with the responsibility of the oversight of the various agencies and departments of government which come within their jurisdiction insofar as legislative policy is concerned. For that purpose we grant to all committees the power of subpena, and we are proposing, as I mentioned yesterday, that they be given staffs of four experts in their respective fields of legislative jurisdiction. I believe that this

provision, if enacted, will have a very salutary effect in making certain that the particular delegations of legislative power made necessary, as I say, by the complexity of our modern society, will be carried out in conformity with the intent of Congress."

513 One more paragraph here:

"Secondly..."

--and this is continuous --

"...I believe that this arrangement will result in the standing committees of the Senate becoming more familiar than they are today with the problems confronting the executive departments in carrying out the will and intent of Congress. In what might be described as the lower echelon of public policy, I believe it will have a similar effect in helping to bring the executive and legislative arms of the Government into a more harmonious relationship in carrying out the laws enacted by the Congress."

Now, on the same day, and I am on the top of Page 6366, the first paragraph, Senator LaFollette still:

"Furthermore, the work of select or special committees is of necessity sporadic. They are created for a special purpose, with a special objective in mind, for a certain field of investigation or study. When that need has passed they tend ultimately

514 to be abandoned, and for that reason their effectiveness is sporadic in character; whereas, if it now becomes the responsibility, as we propose, of the standing committees of the Senate to carry on this very important oversight function, we feel that it will result in a much more continuous surveillance of the executive agencies and departments of government."

Now I am skipping to Page 6367. Senator Pepper asks Senator LaFollette a question, and I am skipping the first two sentences:

"However, the case I had in mind would be one..."

--This is Senator Pepper --

"...would be one in which the administrative agency was

administering a law in a way which a Senator felt was contrary to the congressional intent. No one would be better acquainted with what was the congressional intent in the enactment of the law than the staff of the standing committee which had proposed and recommended the legislation. So, in a case of that kind, the Senator or his administrative assistant could bring the matter to
515 the attention of the committee staff, and if they agreed that the administrative agency was administering the act contrary to the congressional intent, the staff could call someone in the administrative agency and say, 'This matter has been brought to our attention and we are inclined to agree with the persons who have directed our atention to the subject that the way in which you have been administering the act is not in accordance with what was the congressional intent when the act was passed. If they proceeded contrary to congressional intent, we would have an informed staff which could bring to the committee's attention the fact that the administration of the law was not in accordance with the legislative intent.

"Mr. LaFollette. Mr. President, I certainly agree with the Senator from Florida that any administrative procedure which rises to the level of being on its face a violation of the intent of Congress would come within the province of both the standing
516 committee and their staffs."

Now, Senator Mead, on Page 6371, still June 6, 1946, raised this question. I am skipping the first three paragraphs. He raised this question with Senator LaFollette:

"There might in the future be instances when a special committee with a proper staff would be needed to investigate an executive agency of the Government which might be thwarting the will of the Congress, or might have the task of carrying on a great project such as the TVA or the atomic-energy project. There might be need for committees of that type in the future to conduct investigation of the executive agencies as well as for the standing committees which the able Senator proposes to have set up.

"Mr. LaFollette. Mr. President, I answered that question in part before the Senator from New York entered the Chamber. The bill provides for the banning of special committees in the future. The concept of the committee which reported the bill is that the reorganized standing committees of the Senate are to be charged with the oversight and surveillance
517 of the executive agencies and departments. We propose to give them staffs to help them carry on that work. So we feel that the need for special committees will be very greatly minimized.

"Furthermore, without derogation of a single accomplishment of the special committees, it was the judgment of the Joint Committee and the Special Committee on the Organization of Congress that it is more efficient, whereever possible, to have such studies and investigations made by the standing legislative committees. Inasmuch as in the end those committees will have to act upon any legislative recommendations, they would be privy to the entire study from its inception, and some of its members would be experts in the particular field."

Skipping two or three paragraphs.

Senator LaFollette:

"If the Senator will look at our definitions of the jurisdiction of the new committees, which begin at page 12 of the report, he will find a proper committee to carry out almost any
518 investigation of which he can conceive."

And that report, Your Honor, is Defendant's Exhibit 2. Starts on page 11 and 12.

"However, if in the future some very extraordinary matter arises, such as the control of atomic energy, as to which it might be felt that there was a need for the creation of such a committee, or if we were, unfortunately, to be engaged in a war, I have no doubt that a matter of such transcendent importance would cause a sufficient number of Senators to vote to suspend the rule.

"But if we do not ban special committees, it is my firm conviction that we shall not move in the direction of their elimination."

Now, on Page 6372, still June 6, Senator Hill stated:

"With reference to the observation which has just been made by the Senator from New York, let me say that the pending bill gives to the Committee on Expenditures in the Executive
519 Departments a more important status than it has had, and arms it with facilities for its work that it has not had in the past. I can well conceive that the Committee on Expenditures in the Executive Departments, having jurisdiction over budget and accounting, might well function with reference to many of the problems and many of the questions which the Senator from New York no doubt has in mind."

Then Senator LaFollette responded:

"I believe so. I also believe that the provisions which we propose in connection with the activities of the Comptroller General, and the reports coming to that committee will develop a close liaison between the Committee on Expenditures in the Executive Departments and the Comptroller General."

Now, Senator Donnell, on Page 6445, asked Senator LaFollette the following question. And this is June 7. This is the next day, the second day of the debate.

"Does the Senator have in mind that it shall be the duty of each standing committee to exercise a superintendence and a
520 control over the action of the administrative agencies, or is it the intention of the Senator merely to provide that there shall be a continuous state of watchfulness on the part of the committees?

"Mr. LaFollette. We used the word in the sense of watchfulness, and I have explained how I think it will work. That is, if the standing committee is given this responsibility and mandate, and is given a staff of experts, it will be in touch with the various

activities of the departments or agencies of the Government over which it has jurisdiction, and it will endeavor by cooperation, by meetings and exchange of views and gathering of information, to make certain, insofar as possible, that the agency or department, in exercising the broad delegation of legislative power, which is contained in almost every act, is exercising it as was intended by Congress."

Then skipping part of a paragraph:

"My theory about how this will work is derived from some experience. It will work by a continuous surveillance, oversight,
521 watchfulness of the particular standing committee and its staff over the manner in which the department or agency is exercising the broad delegation of legislative power given to it so as to make certain that the power is being exercised as was intended by the Congress."

Now, during the debate -- and I think this is very important -- Senator McClellan offered an amendment, one provision of which I will read in a moment, in which he proposed that a joint committee of the two Houses be set up, and it be more or less a permanent investigating committee. They could investigate all Government departments or any complaints, and that this committee would have almost the powers of all the other committees combined.

I will read that section of the amendment in just a moment.

The debate on it occurs first. And this is Senator McClellan's statement.

It is on June 10, 1946. It is toward the end of the third column on Page 6554.

He says:

"What I think is needed is to set up a joint committee of the two Houses of Congress, to serve as a continuing committee, a
522 permanent committee, and charge it with the duty and responsibilities of making such investigations as the Congress may authorize from time to time, or to investigate on complaints made to it.

or to Members of Congress, which the committee feels have such merit as to warrant an investigation, or to act on its own initiative."

Then I am skipping a paragraph:

"Wnen I offer the amendment which I have sent to the desk, and which is printed and on the desks of Senators, I shall point out the duties and functions, as set forth in the bill and in the report of the committee, which are imposed upon the new Committee on Expenditures in the Executive Departments. By forming the two committees, the House committee and the Senate committee into a joint committee, for the purpose of making the investigations and the studies which the pending legislation directs each committee -- at least, each Senate committee -- to make, this work could be done, if the committee were
523 properly staffed with men competent to assist it, and a better surveillance could be kept over the different administrative and executive agencies of the Government.

"Unless that is done, Mr. President, I do not believe that the provisions of the pending bill..."

--and he is speaking of the bill that later became the Legislative Reorganization Act of 1946 --

"...I do not believe that the provisions of the pending bill will solve that problem. I do not have the provision before me at the moment, but under the terms of the bill, each standing committee is authorized or required in the future to follow through in the administrative departments of the Government all legislation and laws that come under the committee's jurisdiction, see to it that the laws are properly administered, and to keep informed as to the policies of the department, or branch, or agency, or bureau of the Government that is administering a law which the particular committee may have handled and may have reported. I assume the provision would apply to such laws

524 as may previously have been enacted and which would normally have been handled by the committee in question.

"Mr. President, that is all right so far as it goes, and if the committee could find time to do it, that would be of some benefit, and I think they would do it. I would not want to remove that provision from the bill. I think it ought to remain in the bill. If the committees have the time and if they will undertake such work, I think this provision of the bill would serve a good purpose.

"Mr. President, one of the most important reforms we need in this Government is to make governmental agencies more responsive to the elected representatives of the people. That is one of the great problems confronting us."

Then I am skipping a little bit.

"We do not have that power now. The committee which I would set up would have duties along the lines of those prescribed for the committee to be set up under the bill..."

525 THE COURT: Let me interrupt you to ask you a question. To what was he referring? This is Senator McClellan?

MR. PICKENS: Senator McClellan, yes, sir.

THE COURT: To what was he referring when he said:

"We do not have that power now."

MR. PICKENS: Well, my interpretation --

THE COURT: What did he say before he said that?

MR. PICKENS: All right, let me read.

THE COURT: That may answer it. Probably will.

MR. PICKENS: Let me read two paragraphs before that. I don't want to make any misinterpretation.

THE COURT: All right.

MR. PICKENS: "I am sure every Member of the Senate has had similar experiences to some I have had. No matter how meritorious may be the complaints we have from our constituents, we know what occurs. We go down to a Government agency to present the matter, and actually we contact a youth who has been

placed at the head of a division, a young man who may never have had 1 day's practical experience in the line of work of which he is put in supervision, but who has been given authority and jurisdiction, indeed the power, to tell a United States Senator that he
526 does not know what he is talking about; that he is running that show, and he is going to make this order and make that one.

"Mr. President, I am sure every Senator has had some such experience. I know it is impossible for the Senate or the Congress to retain absolute control. Some power must be delegated, but there should be a fellow-up on these agencies by the Congress, with sufficient persuasion, and influence to supervise their administration of the law, so that the Congress could keep advised as to whether their interpretation of the law was in accordance with the will and intent of the Congress at the time the law was passed."

Then he says:

"We do not have that power now."

THE COURT: That answers my question.

MR. PICKENS: He says:

"The committee which I would set up would have duties along the lines of those prescribed for the committee to be set up under the bill on expenditures in executive departments."

527 I am skipping to the bottom of Page 6555, which is still June 10. This is still Senator McClellan:

"The joint committee I propose is not to be a new committee. We would, in effect, be doing exactly what the bill in section 122, which I read, actually is intended to do, but does not adequately do; that is, set up one committee composed of two presently existing committees, one of the House and one of the Senate, charged with the responsibility for the supervision of the efficiency and expenditures in the executive departments of the Government."

Now, this is Section 2. I will read one sentence of Section 1(g).

THE COURT: Of what?

MR. PICKENS: This is Senator McClellan's amendment. He was setting up a joint committee on administrative practices and efficiency.

THE COURT: Yes.

MR. PICKENS: This is on Page 6564 and Page 6565, on June 10. The last sentence of Section 1 (g) of his proposed amendment provides:

528 "Employees of the committee...."

-- and that is this Joint Committee on Administrative Practices and Efficiency --

"...upon the written authority of the chairman or vice chairman, shall have the right to examine the books, documents, papers, reports, or other records of any department or agency of the Government in the District of Columbia or elsewhere."

Now, here is the meat of his bill, Section 2(a):

"The committee..."

-- and this is the joint committee that he proposes --

"...is authorized and empowered to conduct investigations and studies into the practices, procedures, administrative processes, and efficiency of any department or agency of the Government or any corporation owned by the Government or in which the Government has a financial interest. The committee shall receive and consider complaints relating to the practices, procedures, administrative processes, and efficiency of any such department, agency, or corporation. The committee is empowered, upon complaint or upon its own initiative to make

529 such investigations and studies under this subsection as in its judgment may be necessary to keep the Congress fully informed as to whether or not the laws of the United States are being properly and efficiently administered and as to whether or not additional legislation is necessary and appropriate to improve their administration. It shall be the duty of the committee to make

such studies and investigations when directed by resolution of either House of Congress."

Now, skipping the rest of the bill, and I am still on Page 6565, the top of the page, second column:

"Mr. President..."

THE COURT: Who is this?

MR. PICKENS: This is still Senator McClellan.

"Mr. President, the purpose of this amendment is to strengthen the pending bill. I have already discussed some of the merits of it in my previous remarks on the bill. The reorganization would place upon the new Committee on Expenditures in the Executive Departments certain duties set forth in the
530 report. I shall not take the time to read them. This amendment would establish a standing joint committee of the two Houses and direct it to make investigations with respect to administrative affairs, and questions relating to efficiency in the administrative branch of the Government."

Now, there is a column or so that he continues along the same line.

Then at the top of the third column on Page 6565, Senator LaFollette answers him in two paragraphs:

"Mr. LaFollette. Mr. President, I am exceedingly sorry to have to rise to oppose this amendment."

Speaking of Senator McClellan's amendment.

"The recommendation contained in the bill charge the expenditures and accounts committees of the two Houses with many of the same obligations contained in the pending amendment.

"Secondly, we have come to the conclusion that no one committee can possibly give oversight to the actions of the myriad agencies and departments of Government and make
531 certain that they are keeping within the bounds of the intent of Congress in delegating power to them to issue rules and

regulations which have the force of law. For that reason we have placed that responsibility on the reorganized standing committes. Likewise, the bill contains a provision permitting those committees to form joint committees with their opposite numbers in the House. It seems to me that this amendment would simply duplicate what the committee has attempted to do through the standing committees. In my opinion, it would disrupt the plan as we have conceived it. We feel that dumping this entire load upon one joint committee would simply swamp it. It would have neither the staff nor the time to handle the matters which might be submitted to it."

Now, on Page 6566, the question was called, and Senator McClellan's amendment to the bill to set up this proposed joint committee to investigate all agencies of the Government was defeated.

On Page 6578, there is a roll call by the Senate on the Legislative Reorganization Act of 1946; and among the sixteen Senators
532 voting against the Act is contained the name of Senator McClellan; and the Act was passed with very few changes, substantially as reported.

* * * * *

538 MR. PICKENS: Your Honor, if you will indulge me, I missed one passage here that I meant to read. It is just a couple of paragraphs.

It is a statement of Senator LaFollette on Page 6344, the middle column toward the end.

"One group of proposals contained in the measure deals with the strengthening of the policy-making functions of the Congress. Because of the volume and the specialized character of the work with which both branches of the Congress must now deal, we have logically delegated to the standing committees of the Senate the initial work of policy making in connection with those measures. Those committees have had a long, distinguished, and useful history since the Senate was first organized. There have been several major and minor reorganizations of the congressional committee system through the years, as new problems

have arisen and old problems have disappeared. The system,
539 however, has not been revamped to meet modern conditions since 1921.

"It is my opinion and that of all members of the joint committee, as well as the special committee, that the time has come when we must make a thorough-going reorganization of the committee structure of the Senate. I have served in this body for more than 20 years. I have seen the growth in complexity of our problems, both domesitic and foreign, until today we find ourselves confronted with a tidal wave of intricate and difficult problems affecting both foreign and domestic issues, which makes it impossible under our present multiplicity of committees, with overlapping jurisdictions, and the multiplicity of service by Senators upon those committees, to discharge our enormous tasks adequately under present circumstances."

Then skipping to the middle of the first column on Page 6345, and both of these statements were made on June 5, 1946. It is the same volume, Volume 92, 79th Congress, Second Session. Skipping a column, he said:

"Mr. President, in this measure we have proposed for the
540 first time in the history of the rules of the Senate to define the jurisdiction of the reorganized committees. Under the practice of the Senate, the jurisdiction of committees has grown up in part as a result of their names and in part because of the general field of legislation which they normally would cover. Committees have also acquired jurisdiction simply because they have had the power to initiate a particular piece of legislation, especially in a new field. As a result of this practice, the jurisdictional lines between our committees are confused not only because they overlap, but also because of the practice of having jurisdiction attach to a particular committee if by chance it may have considered original legislation in some new field. Through the years, as the activities of the Federal Government have grown in scope and complexity,

the result has been, naturally, to complicate an already complicated situation insofar as jurisdictional conflicts between the present committees are concerned

"It is in the hope of simplifying that situation and, insofar
541 as possible, of anticipating and avoiding future conflicts of jurisdiction that we have attempted in this measure to spell out the jurisdiction of the standing committees which we propose. After many years of observation and after several years of intensive study, I am convinced that the reorganization of the committee structure of the Senate is the keystone of the arch of improving the efficiency of this body in discharging its tremendous legislative responsibilities in the modern world."

• • • • •

564 MR. PICKENS: It has been stipulated between counsel for the Government, Mr. Hitz, and myself, that if Mr. Justin Winkle, the
565 Assistant Commissioner of Internal Revenue, were called to testify, he would testify as follows, in substance.

• • • • •

He would testify, in substance, as follows:

"At the request of Mr. Robert Kennedy, counsel to the Subcommittee, Mr. Harold T. Swartz, Director of the Tax Rulings Division of the Internal Revenue Service, and I appeared at Mr Kennedy's office at 9:30 A. M., January 11, 1957. A few minutes after we arrived, Mr. Adlerman, who was introduced to us as a member of the Subcommittee Staff, also came into Mr. Kennedy's office. To the best of my recollection, the following is the sub-
566 stance of the conversation which ensued during that meeting although the items are not all necessarily set down in the order in which they were discussed.

"(1) The conversation opened with some general questions by Mr. Kennedy as to whether labor unions were exempt from income tax, wherther they were required to file returns of any kind, and to what extent we checked those returns. I repited

that labor unions were exempt from income tax under section 501 (c) (5) of the Internal Revenue Code; that they were required to file annual information returns; and that the extent to which these returns were checked was very limited due to the Service's manpower situation.

"(2) There was also some discussion of the penalties which applied when an exempt organization filed a false return.

"(3) Mr. Kennedy also asked whether we ever had any occasion to challenge the exempt status of an organization be-
567 cause it refused to turn over its books and records to us. My reply, which was confirmed by Mr. Swartz, was that we did not recall that this had ever happened.

"Mr. Kennedy asked whether the Service believed that it had authority to revoke an exemption on these grounds. My reply to this was that I personally believed it had.

"Mr. Kennedy asked why, if this was the Service's position, we had not done so, and he referred briefly to the decision of the Ninth Circuit in the case involving a Local of the Teamsters Union on the West Coast. I told Mr. Kennedy that I could not answer that question inasmuch as matters pertaining to litigation were not within my province but within the province of the Chief Counsel of the Service.

"(4) Mr. Kennedy also wished to know whether the Service would have any interest in information which might indicate that an official of a labor union had taken monies from the welfare
568 fund of the union. I told Mr. Kennedy that the Service would be interested in receiving any information which might possibly bear upon the question whether the union had filed a correct information return, whether it was properly exempt, or whether any of its officials had reported all the income which they were required to under the revenue laws.

"(5) There was also a brief discussion of why the Subcommittee could not secure access to applications filed by labor

unions under the authority which it was given by Executive Order to inspect information returns.

"(6) During the course of the discussion, and at the request of Mr. Kennedy, I left with him copies of the types of application and return forms which labor unions are required to file.

"The foregoing represents my best recollection of the substance of the meeting of January 11. It was a relatively short meeting and there was no discussion of any specific tax
569 cases. The only court decision that was mentioned was the decision of the Ninth Circuit involving Local No. 174."

He continues:

"At 2:00 P. M. on January 15, 1957, Mr. John Potts Barnes then Chief Counsel of the Internal Revenue Service, Mr. William M. Coard, Chief of the Intelligence Investigations Branch of the Intelligence Division of the Service, and I went to the office of Senator John L. McClellan, pursuant to a telephone request made by Mr. Kennedy that the Senator would like to see Mr. Barnes and myself.

"When we arrived, we were greeted by Senator McClellan and Mr. Adlerman. Mr. Kennedy came into the Senator's office a few minutes after the discussion began.

"The following represents my best recollection of the conversation which ensued on this occasion:

"(1) Senator McClellan, after thanking us for coming up,
570 told us how the Permanent Subcommittee on Investigations had first become interested in labor unions, stating that its interest had stemmed from some inquiries it had made into certain Naval procurement practices. He also stated that the Subcommittee was about to open hearings to determine whether there is a need for any changes in the laws relating to labor unions and welfare funds since information which had come to the attention of the Subcommittee indicated some irregularities and abuses in these

areas.

"Senator McClellan also stated that he had reason to believe that there might be some challenge made to the jurisdiction of the Subcommittee before the public hearings got under way; that he intended to ask representatives of Internal Revenue Service, as well as representatives of other Governmental agencies having responsibilities in the areas of labor unions and welfare funds to
571 appear and answer questions respecting the adequacy of existing laws and the procedures and practices being followed in enforcing them.

"(2) With the exception of one or two additional items that were discussed, which are set forth in the paragraphs which follow, the conversation which then ensued was pretty much a repetition of the preliminary conversation had with Mr. Kennedy and Mr. Adlerman on January 11th. The exceptions, as I recall them, were as follows:

"(3) There was some discussion as to whether, in the event the Service decided to revoke the exemption of a labor union, it would tax the dues paid into the union as income to it. Chief Counsel Barnes expressed some doubt on this score but Mr. Adlerman pointed out that there was a line on the information return form which suggested that dues would constitute income.

"(4) There was also some discussion as to whether the
572 Service could revoke the exempt status of a labor union on the ground that a part of its income was inuring to the benefit of an official.

"(5) There was some discussion as to whether the Service believed that legislation might be needed to prevent some of the abuses and irregularities that information before the Subcommittee indicated existed. Mr. Barnes replied to this question in substantially the same way he replied to a similar question put to him by the Chairman during the Hearings held on January 16 (see page 35 of the Hearings). In this connection, reference was also made

to the fact that the Treasury Department had already committed itself to the Moss Subcommittee to sponsor legislation making applications filed by exempt organizations available for public inspection.

"(6) One of the final questions asked by Senator McClellan was whether, in view of the fact that the Service did not have sufficient manpower to examine returns of all labor unions and
573 welfare funds, it would improve the Service's operations and overall efficiency if information was made available to it through hearings which the Subcommittee might conduct that would identify certain situations that indicated the possible existence of violation of the revenue laws.

"My answer to that was that, since the Service did not have sufficient manpower to examine all of the returns it would like to, any information it received along these lines which would identify particular situations that had a revenue potential or in which there was some indication of noncompliance with the revenue statutes, would of course improve the Service's efficiency in administering the tax laws.

"The foregoing represents my best recollection of the conversation which ensued during the January 15th meeting. There were no specific tax cases discussed. The only court decision to which reference was made was the Ninth Circuit
574 decision involving Local No. 174.

"I have shown this memorandum to Mr. Swartz and Mr. Coard and they have indicated that it also represents their recollection of the meetings which they respectively attended."

* * * * *

576 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Criminal Division

UNITED STATES)
)
vs.) Criminal No. 290-57
)
NUGENT La POMA)

* * * * * *

579 MR. PICKENS: (reading)

"It is hereby stipulated that the Honorable Boyd Leedom, Chairman of the National Labor Relations Board, if called as a witness at this trial by the defendant, would give testimony substantially as follows:

"On January 7, 1957, Chairman Leedom met with Robert Kennedy, Esquire, Chief Counsel for the Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate, and with other staff members of that Committee. The conference was requested by Mr. Kennedy and occurred at the offices of the National Labor Relations Board, in Washington, D.C. Mr. Kennedy inquired whether the Western Conference of Teamsters was a labor organization, and whether the Board had any control over a labor organization
580 if the financial data which it filed pursuant to Section 9 (f) and (g) of the National Labor Relations Act, as amended, proved to be false.

"Chairman Leedom stated that he did not know whether the Western Conference of Teamsters had appeared as a labor organization in any cases before the Board, but that inquiry would be made of the Board's regional offices concerning this matter.

"The results of this inquiry are set forth in Chairman Leedom's subsequent testimony before the Permanent Subcommittee on Investigations (Hearings before the Permanent Subcommittee on Investigations, 85th Congress, 1st Session,

January 16, 1957, pp. 3-20, 260-263)."

Now, your Honor, that is Government's Exhibit No. 8 that those pages refer to.

"Respecting the financial reports under Section 9 (f) and (g), Chairman Leedom pointed out that the Board believed that it had no power to investigate the truth or falsity of the reports, or to declare a union out of compliance if the reports proved false; that the Board's function in this area seemed to be
581 limited to a determination that the union had a postcard from the Secretary of Labor stating that the required documents had been filed with him.

"On January 15, 1957, Chairman Leedom went to the office of Senator John L. McClellan, Chairman of the Permanent Subcommittee, for a conference, at which Mr. Kennedy was also present. This conference covered the same ground as the earlier one with Mr. Kennedy. Chairman Leedom again explained the Board's view that it lacked authority to investigate the veracity of the financial reports which were filed by a labor organization pursuant to Section 9 (f) and (g) of the National Labor Relations Act, as amended. Chairman Leedom added that the Supreme Court had recently held that the Board lacked such authority in respect to the non-communist affidavits required by the companion Section 9(h), and that the Board believed that the same rule of law applied to the Section 9(f) and (g) reports.

"The substance of the two conferences described herein
582 was subsequently repeated by Chairman Leedom on January 16, 1957, in his testimony before the Permanent Subcommittee on Investigations (Hearings, op. cit., supra)."

* * * * * *

583 MR. PICKENS: And this stipulation reads as follows:

"It is hereby stipulated that the Honorable James Paul Mitchell, Secretary of Labor, if called as a witness at this

trial by the defendant would give testimony substantially as follows:

"On January 4, 1957, at 9:30 a.m., Secretary Mitchell met with Robert Kennedy, Esquire, Chief Counsel for the Permanent Subcommittee on Investigations of the Committee on Government Operations of the United States Senate and with Mr. Carmine Bellino, Accounting Consultant to that Subcommittee, in his offices in Washington, D. C. This conference was requested by Mr. Kennedy. The Secretary stated that Mr. Kennedy was soliciting general background information that the Secretary
584 had concerning labor union practices, good and bad, and how unions operated in general. He stated that he could not recall any discussions at this conference relating to the forms required to be filed by labor unions pursuant to Sections 9(f) and (g) of the Taft-Hartley Act. He stated that he thought eight or nine unions were mentioned and that among those was the Teamsters' Union. He stated that the discussion centered mainly around unions in the midwest and east as he (the Secretary) was more familiar with unions in those sections of the Country. The Secretary expressed himself as being of the opinion that Mr. Kennedy was seeking the benefit of the Secretary's expreience in the labor field. The Secretary had not discussed any of these matters with Mr. Kennedy, any members of the staff of that Committee, or any members of the Committee prior to that date.

"On January 12, 1957, the Secretary went to Senator John McClellan's office pursuant to a prior request from Mr. Kennedy, for a conference with Senator McClellan, Chairman of said
585 Permanent Subcommittee. Senator McClellan inquired of the Secretary concerning the Department of Labor's authority and responsibility under the Taft-Hartley Act concerning the forms filed by labor unions pursuant to Sections 9 (f) and (g) of the Act. At this time Senator McClellan requested the Secretary to be a witness at the hearings which commenced the following Wednesday, January 16. The Secretary stated that he had not

at any other time discussed with members of the Committee or its staff the subject of the investigation or the filing of the forms pursuant to said Sections 9 (f) and (g) of the Taft-Hartley Act, except that some time in May 1957 he went to Senator Hill's office in the Senate Office Building and discussed a proposed Joint Resolution to enable the Secretary of Labor to make public information contained on these forms filed by labor unions pursuant to said Sections 9(f) and (g) of the Act."

* * * * * *

586 Then, after the statement that Senator McClellan was present at the conference in Senator Hill's office, it continues without interruption:

"As a result of this conference, which was held at the Secretary's request, the Joint Resolution was subsequently introduced by members of the Senate Committee on Labor and
587 and Public Welfare and the Select Committee on Improper Practices in the Labor or Management Field.

"Other than the conferences referred to, the Secretary stated that he had had no other conferences with other members of the Subcommittee concerning these specific matters.

"With reference to the Secretary's testimony on page 23 of the Subcommittee hearings of January 16-19, 1957, in which he stated that the Labor Department was then 'reviewing at the President's direction the whole Taft-Hartley Law for the purpose of making recommendations', the Secretary stated that the Department did pursue that study and has made some recommendations.

"In addition, the Department has promulgated new registration forms pursuant to Public Law 101, 80th Congress, as a result of an administrative decision that more detailed information was desirable from registering unions. The Secretary stated that among the changes made by the new form,
588 information was to be elicited as to gifts, loans, and other

financial transactions between union officers and unions. The new form also calls for certification by the president or principal executive officer of the union and the secretary-treasurer or principal financial officer of the union and specifically warns of the penalties which may result under 18 U.S.C. 1001 for the submission of false information. To some degree, these changes in the forms were the result of testimony before the Committees (the Subcommittee and the Select Committee)."

* * * * * * *

594 MR. PICKENS: Now, your Honor, I don't wish to belabor your ruling in connection with the testimony in regard to pinballs and vice and corruption, but in order to preserve my record I would like to offer the testimony before the Government Operations Committee of some seven witnesses with the understanding that these copies will be marked and then over night I will make copies of them because I don't presume Mr. Hitz has another copy.

First, I will offer the transcript of the testimony before the Senate Permanent Subcommittee on Investigations of the Committee on
595 Government Operations on Saturday, January 19, 1957, of Helen Hardy Tols at an executive session of the Subcommittee, and this is one of those referred to by Chairman McClellan on January 19th, whose testimony was never made public.

I don't wish to read it to your Honor because it involves prostitution.

THE COURT: What is the purpose of your offer?

MR. PICKENS: And the purpose of my offer is this.

THE COURT: I suppose what you are about to say as to her testimony would be the same as to the other six?

MR. PICKENS: All right, sir, except that I will mention what the other six--

THE COURT: I mean, your purpose is the same?

MR. PICKENS: The purpose is the same.

THE COURT: What is it?

MR. HITZ: Will you give me the date of her testimony again, please?

MR. PICKENS: The date of her testimony is January 19, 1957. The purpose is this: On Page 195 of Government's 8 the Chairman made the statement that the Committee had heard a number of witnesses in executive session, "witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry and testimony that indicates that conditions prevail that are of interest to the Congress
596 in its investigation of Government operations with respect to its efficiency and economy."

So the Chairman states that the testimony of these witnesses was pertinent to the question under inquiry, and we say that the testimony of these seven witnesses shows what the question under inquiry was, what the purpose of this investigation was.

Now, of course, I know the Government has put on evidence to show that it was the falsity of the filing of these tax and labor forms and, therefore, they were inefficient. But we say that the purpose under inquiry, and even the Chairman of the Committee says that the purpose under inquiry was the testimony of these witnesses, and we say that the purpose under inquiry was not what the Government says it was in this case but was labor racketeering, and when I use the term "labor racketeering" I am including vice and corruption and connections between the Teamster Union and all sorts of underworld elements, including prostitution and pinball operations which, of course, at that time I believe were legal in the State of Oregon.

So that is the purpose of offering the testimony of Helen Hardy Tols, to show, as the Chairman stated, what the real purpose of the inquiry was.

THE COURT: You take the position that because he made the statement that they had heard the testimony of those witnesses and
597 that their testimony was pertinent, that he thereby excluded anything else as pertinent?

MR. PICKENS: No, Our position is--

THE COURT: It necessarily follows from your statement that that is what you contend.

MR. PICKENS: We contend that this is the purpose under inquiry. Now, the fact that they asked a few questions which we deny were proper questions or were pertinent to any inquiry that they could undertake--as Judge Kamin said in one case, you can't ask in an investigation that is heading east, you can't ask heading west questions and convict the man of contempt for refusing to answer.

Now, we say that these questions with regard to labor forms and tax forms were a mere ruse. Those were heading east questions and this investigation was really heading west.

It was on vice and corruption and these other matters.

THE COURT: Well, I come back again to what I said or a paraphrase of what I said the other day. If they asked a number of questions or interrogated a number of witnesses concerning one phase of labor racketeering it doesn't follow that they didn't have a right to inquire into the other phases of the matter.

MR. PICKENS: If they had authority and a legislative purpose.

598 THE COURT: It doesn't follow either that they had a right to ask the questions. I mean, the fact that they walk down one avenue to see the sights doesn't preclude them from walking down a different avenue to see different sights.

MR. PICKENS: Well, we say they didn't walk down a different avenue. We say they went right down the same avenue and when they got down to the end and their jurisdiction was questioned then they started talking about tax and labor forms, and they never started out to investigate them.

THE COURT: My position before, I adhere to. I think the Government was entitled in this case to lay a foundation for what it contends was the legitimate inquiry of Mr. LaPoma. But I would not receive proof of whether those fears that they had were justified or not.

All I am concerned about is whether they had a right to inquire into it. Now, they would have had to have some basis for thinking that they did have. Then, having thought so, the Committee was either right or wrong, as a matter of law. But I am not going to open, because I don't see its materiality here, this--

MR. PICKENS: Well, may I present--

599 THE COURT: --this case to all of them, and I mean to any kind of inquiry that they may have made and, therefore, I refuse to receive the testimony of those seven witnesses based on your statement as to what they have to do with it.

MR. PICKENS: All right. I will make this very brief because I would like to offer each one of them.

THE COURT: Yes.

MR. PICKENS: First is Helen Hardy Tols. I would like to offer this as Defendant's Exhibit 15-A.

THE COURT: And that is refused.

MR. PICKENS: That is refused.

MR. HITZ: Then you want to carry it as an identification exhibit on the Clerk's list?

MR. PICKENS: That is right, as a rejected exhibit.

THE COURT: Well, you have made a note of that, have you not?

THE DEPUTY CLERK: Yes, sir. Defendant's Exhibit No. 15-A.

(Thereupon a transcript of the testimony of Helen H. Tols in executive session was marked by the Deputy Clerk as Defendant's Exhibit No. 15-A for identification.)

THE COURT: Then you are going to continue the No. 15, I guess.

600 MR. PICKENS: That is correct.

THE COURT: Right.

MR. PICKENS: As No. 15-B I offer the testimony of Geraldine Taylor who testified before the same Committee on January 17, 1957, and testified concerning certain connections between unions in New York and hoodlumism and gangsters and the underworld in New York.

THE COURT: Same ruling.

MR. PICKENS: As 15-C I offer the testimony of Stanley W. Earl of Portland, Oregon, who testified on January 17, 1957, to the effect that the Teamsters on the West Coast had attempted to take over the law enforcement agencies in the State of Oregon.

THE COURT: The same ruling.

MR. PICKENS: As 15-D--

THE COURT: Now, Mr. --

MR. PICKENS: I am sorry.

THE DEPUTY CLERK: Defendant's Exhibit No. 15-B.

MR. PICKENS: Now, the testimony of Miss Taylor and Mr. Earl are contained in the same volume, so I guess I could make them both 15-B.

THE COURT: Right.

THE DEPUTY CLERK: For identification.

MR. PICKENS: For identification and rejected.

601 (Thereupon a transcript of the testimony of G. Taylor and S. W. Earl in executive session was marked by the Deputy Clerk as Defendant's Exhibit No. 15-B for identification.)

MR. PICKENS: I offer as Defendant's Exhibit 15-C then the transcript of the hearings before the same committee on January 18, 1957, which includes the testimony of Wallace Turner and William Lambert, newspaper reporters for the Portland "Oregonian"; their testimony to the effect that the Teamsters had attempted to take over law enforcement in Portland and had attempted to control vice and other rackets in Portland;

The testimony of James B. Elkins, a racketeer, gambler, hoodlum of Portland, Oregon, who testified along the same lines, that the Teamsters had tried to take over the--the Teamster Unions on the West Coast had attempted to take over law enforcement and the control of vice and corruption in Portland; and the testimony of Leo Plotkin, who was a runner, I think, engaged in the numbers racket and also engaged in prostitution to some extent, who testified that

the Teamsters had tried to take over those activities on the West Coast:

MR. HITZ: The last letter was what? E?

MR. PICKENS: C. Just the three volumes.

THE DEPUTY CLERK: Defendant's Exhibit 15-C for identification.

602 (Thereupon a transcript of the testimony of W. Turner, W. Lambert, J. B. Elkins, and L. Plotkin, in executive session, was marked by the Deputy Clerk as Defendant's Exhibit No. 15-C for identification.)

* * * * * *

603 MR. HITZ: I will submit that these are true and--

THE COURT: That is my whole point. There can't be any doubt about those being the true copies and I think if you want to leave them with the Clerk for your record here they ought to be the ones you leave rather than copies that you plan to make overnight.

MR. PICKENS: That is all right with me but I don't know what position that leaves Mr. Hitz in because I obtained them from him.

MR. HITZ: Yes, we would rather assume the burden of checking the accuracy of--

THE COURT: Well, that is all right then. I didn't know that.

* * * * * *

604 NUGENT La POMA

was called as a witness by the defense, and being then and there duly sworn by the Deputy Clerk, assumed the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. PICKENS:

Q. Mr. LaPoma, would you keep your voice up and state your name and address? A. Nugent La Poma.

Q. Talk to the Judge. A. You want my business address or home address?

Q. Well, your business address. A. 552 Denny Way, Seattle, Washington.

Q. And what is your present position or occupation? A. I am Secretary-Treasurer, Local 174.

Q. And how long have you held that position? A. Since January 1st of 1954.

Q. Now, are you the defendant in this action? A. I sure am.

Q. You have been here all the time when Mr. Kennedy testified. He testified concerning a conference with you around December 15, 1956. A. Yes, sir.

Q. Do you recall that? A. Yes, sir.

605 Q. Where was that conference held? A. That was in Seattle, Washington, at the Teamsters Building, which is known as the Western Conference Building.

Q. And who was present; do you recall? A. Well,--

Q. Start at the beginning and tell us how you happened to enter the conference. A. Well, first of all, the people present was Mr. Bellino, Mr. Kennedy, Mr. Bassett, and myself. That morning there I was in a meeting across the hall from where we met with Mr. Kennedy and Mr. Bellino.

I was attending a meeting. Mr. Brewster entered and told me that Mr. Bassett wanted to see me across the hall. I went across the hall and Mr. Bassett introduced me to Mr. Kennedy and Mr. Bellino and asked me to have a seat. And I sat down.

Mr. Kennedy then handed me a subpoena. I accepted the subpoena. I didn't look at it--and started asking me some questions.

Q. All right. Now, what did he ask you? A. The first question he asked me was where I was born. I told him I was born in Kansas City, Missouri. He asked me what my school was and I told him Manual Training High School in Kansas City, Missouri.

He then asked me if I was ever convicted of any crime and

606 I told him I was never convicted of any crime and he could check the records.

He asked me what salary I received from the Teamsters organization, and I told him, as he stated here, my salary which is

around sixteen thousand a year. He then asked me in regards to the books of 174 and that he wanted to take a look at the books of 174, and I told him as far as I was concerned he could have the books any time he wanted to; I had nothing to hide.

Q. Do you recall anything else that he asked you at that time? A. No, he did not. I can't recall any other thing he asked me. I was only in there for approximately ten or fifteen minutes.

Q. Did he ask you any questions about union dues? A. No, sir.

Q. Did he ask you any questions about forms that were filed by your local under Sections 9(f) and (g) of the Taft-Hartley Act? A. No, sir.

Q. Did he ask you anything about these Forms 990 under the Internal Revenue Code? A. No, sir, he did not.

Q. Did he ask you anything about per capita assessments of the union? A. No, sir, he did not.

607 Q. I believe he testified that he asked you about--something about some of Mr. Brewster's affairs.

Do you recall whether he asked you--

A. Yes, I am pretty sure now you brought my attention to it, he did ask me if Mr. Brewster ever made any loans from Local 174 and I told him since I been secretary that no one makes loans from 174; that when I became secretary-treasurer that was one thing that was stopped.

Q. I believe he testified here that you had made a loan from 174 during this period. A. No. There was no loans since 1954. Now, he asked about loans in the Teamsters organization. He didn't mention 174. And I told him I made a loan from the Western Conference of Teamsters in regards to Campbell Soups' stock.

And before the hearing started those--that stock was absolutely paid for and I paid interest on it also before the hearings started.

Q. Did you explain that to him about why you made this loan concerning the Campbell Soup stock? A. No, he didn't ask me.

Q. I think he testified that he wasn't sure whether or not he

asked you anything about Mr. Shefferman. A. No, he did not ask me about Mr. Shefferman or any other individual.

608 THE COURT: Except Mr. Brewster?

THE WITNESS: Just that one question, your Honor.

BY MR. PICKENS:

Q. Now, did he tell you why he wanted the books of Local 174? A. No, he did not.

Q. Did he tell you what matters he was investigating, if anything? A. No, he did not. The only interpretation I took from all the headlines in the newspapers, that to my line of thinking, when he asked me if I was ever convicted of any crime, that he was investigating rackets and prostitution and everything else that we read in the papers.

609 Q. Well, had there been a lot of newspaper publicity about attributing statements to Mr. Kennedy prior to the time of this conference? A. Oh, yes; there was just headlines in every paper we have in Seattle. We have two of them: Post Intelligencer, a Hearst paper, and Seattle Times.

Q. Did he tell you why he was there? A. No, he did not.

Q. At the conference? A. No, he did not.

Q. Did Mr. Bellino have anything to say? A. No, Mr. Bellino did not.

Q. Now, did you attend the hearings in Executive Session, I believe, on January 16, 1957 before the Government Operations Committee? A. I did.

Q. The Subcommittee. A. Yes, sir, I did.

Q. Did you know the purpose of these hearings before you arrived in Washington? A. No. I still thought it was an investigation of racketeers, to my knowledge.

Q. Did you testify on the 16th, before this Committee, January 16? A. Yes. That was closed session, I believe.

610 Q. Were you shown a mimeographed copy of what purported to be the opening statement of the Chairman on the 16th of January? A. Well, I did not receive a copy.

I would like to explain a little detail on that.

Q. Would you explain the circumstances surrounding your seeing a copy? A. That is right.

I was down at the other end of the hall; and when I come back, Mr. Bassett and Mr. Brewster had a copy that they were reading. And Mr. Bassett handed me one; and I glanced over it and handed it back to him. I didn't pay too much attention to it. I didn't know what it was. No one told me what it was.

Q. Now, at the time that you testified on the 16th of January, in Executive Session, did you know that Secretary Mitchell had testified in Executive Session before you? A. No, sir.

Q. Did you know that Judge Boyd Leedom, of the National Labor Relations Board, had testified? A. No, sir.

Q. Or did you know that Assistant Commissioner Winkle or General Counsel Barnes of the Internal Revenue Service had testified before you? A. No, sir.

611 Q. I show you copy of Government's Exhibit 8, and direct your attention to Page 48.

The Chairman states, about eight lines down, to you:

"May I ask you if you were supplied this morning with a mimeographed copy of the statement the Chair made at the opening of this series of hearings, in which the Chair pointed out the purposes of these hearings and the subject matters that were under the committee's investigation?"

And you said:

"I read such a copy."

The Chairman says:

"You read such a copy and, therefore, you understand what the committee's interest is, and the purpose of the investigation?"

And you said:

"Yes."

Now, I ask you what you thought the purpose of the

investigation was when you told the Chairman, "Yes"? A. As I stated before, I glanced over that copy and I was so confused when he asked the question, I didn't know what he was talking about.

612 Q. What did you think the purpose of the investigation was? A. I still think, and to this day, I still think it was investigation of racket and nothing else.

Q. Now, on the 16th, did you refuse to turn over the records of Local 174?

This is still the same day, the 16th of January.

A. Yes, I read a statement there before the Committee which our attorney advised us to read; and I kept referring back to the statement, which was the challenging of the authorization of the Committee at that time.

THE COURT: That is set out in Government's No. 8, is it not?

MR. PICKENS: That is correct, Your Honor. I was looking for the page.

I might tell the Court, the reason I am referring to it here is that later, on the 19th, the statement wasn't read; and the Chairman said: It will just be printed from the 16th.

That is the reason I was going into this at this time.

I would like to read the statement to Mr. LaPoma.

BY MR. PICKENS:

Q. You said the basis for your refusal was the advice of counsel; is that right? A: Correct.

613 Q. On Page 48, Mr. LaPoma stated:

"I desire to state to you my reasons for not producing any financial records or other papers or documents in response to this subpena. My reasons are: First, I am advised by counsel that in attempting to investigate Teamsters Union, Local 174, and to examine the financial records, correspondence, minutes of meetings and other documents described in said subpena, the subcommittee is proceeding in excess of its lawful authority; second, I am further advised by counsel

that the language of said subpena is so broad, sweeping, and lacking in particularity as to constitute an unreasonable search and seizure under the fourth amendment to the Constitution of the United States."

May I ask you who your attorney was on this occasion? A. Mr. Samuel B. Bassett.

Q. And he appeared with you at this hearing; is that correct? A. Yes, sir.

Q. Now, may I ask you if you filed this statement with the Com-

614 mittee prior to the time you testified? A. Mr. Bassett filed it, because according to the rules, it had to be filed at least twenty-four hours prior to the hearing that we were supposed to go into.

Q. And what is your best recollection as to when this statement was filed, if you know? A. He did file it. We were supposed to appear on the 15th. We were subpoenaed for the 15th; so I presume that he had filed it the day before the 15th.

Q. Now, I direct your attention to January 19, which is a Saturday, I believe.

Did you appear before the Committee again? A. Is that the public hearing?

Q. Yes. A. Yes, I did.

Q. Now, I believe the record shows that Mr. Brewster testified before you did.

Were you in this hearing from the time that it opened until the time you testified? A. In and out.

Q. Well, I wonder if you would explain that? A. Well, first of all, it is a small room. I don't know if you have been in that committee room where we were. It is a small room; and they had two rows of tables set up for the reporters.

615 The benches was kind of a U shape, more like a horseshoe shape. And there was, oh, I would say, four or five rows of seats; and there was a partition in the back. And it was crowded, packed like sardines.

The only thing we could do was stand in the aisles toward the back or else we would have to stand outside or come in and go out.

I stood in the back there for a little while. It was so hot back there, I went out in the hall and stood out in the hall there; and then in a few minutes, I come back in and leaned up against the starting of the horseshoe bar there where the doorman stood there; and then I went back out.

And I did that as long as Mr. Brewster was on the stand.

Q. Did you attempt to obtain a seat? A. Yes. In fact, I asked Mr. --Senator Jackson, from my home state, if he could fix it that we could obtain seats there.

And I asked him--it was awful funny they didn't reserve seats for witnesses.

Q. All right. Now, prior to the time that you testified on the 19th, had you read the statements made--the testimony made by Secretary Mitchell or Judge Leedom or Commissioner Winkle that they had made on the 16th? A. Would you repeat the first part of that question?

616 THE COURT: Had you read the testimony that had theretofore been given in Executive Session by the Secretary of Labor, the Chairman of the National Labor Relations Board, Mr. Leedom, and Mr. --

MR. PICKENS: Winkle, I believe.

THE COURT: -- Winkle of the Internal Revenue Service? Had you read their testimony?

THE WITNESS: No, sir. The first time I read that is when I come here back in this case in Washington.

BY MR. PICKENS:

Q. And did you refuse to produce your books of Local 174 at this hearing on the 19th? A. Under the same circumstances I did on the 16th.

Q. Was the basis for your refusal the same? A. Yes, on the statement that we read.

MR. PICKENS: Excuse me one moment, Your Honor.

I just wish to read from Page 229 of Government 8. The Chairman says:

"Mr. Counsel, this witness has appeared before. His identity is in the record and also his counsel's identity is in the record.

617 "You may proceed."

Mr. Kennedy says:

"He has a statement, I believe.

"Mr. LaPoma. Yes, Mr. Chairman, I have a statement that I read before your committee before. Do you want me to read it?

"The Chairman. You read it before?

"Mr. LaPoma. Yes, before your committee.

"Mr. Kennedy. In executive session. Do you just want to put it into the record?

"The Chairman. It is already in the record. Those hearings have been made public. The statement is in the record.

"Mr. Kennedy. They have not been made public yet.

"The Chairman. Well, then, they have been ordered to be made public.

"Mr. Bassett. The statement identifies the witness.

"The Chairman. The statement will be printed in the record, then, at this point.

618 Then there is a notation:

"The statement referred to appears on p. 48.

"Mr. Kennedy. Could he just read what he is?

"The Chairman. All right. Read that part of the statement that identifies you."

Then skipping to the next page 231, in the middle of the page, right after,

"At this point, Senator Symington withdrew from the hearing room.

"The Chairman. You have been in the room here all

8

morning, have you not?

"Mr. LaPoma. Yes.

"The Chairman. Since the open session of the committee convened?

"Mr. LaPoma. Yes, sir.

"The Chairman. You heard the statements I made to the witness Frank Brewster with respect to the purposes of this inquiry and investigation?

"Mr. LaPoma. I did.

"The Chairman. Then you know the purposes--

619 "Senator McCarthy. You can answer it 'yes.'

"Mr. LaPoma. Yes."

BY MR. PICKENS:

Q. Now, Mr. LaPoma, I ask you what you understood the purposes of the inquiry to be when you said "Yes" to the Chairman's statement at that point? A. I didn't. I thought Senator McCarthy was doing me a favor trying to help me when he told me, yes; so I answered, yes. But I did not know.

THE COURT: What made you think that?

THE WITNESS: Well, I didn't know, Your Honor. It was a little confused.

THE COURT: The Chairman asked you if you knew the purpose of the Committee; and you answered, yes.

You mean you answered, yes, simply because Mr. McCarthy told you to?

THE WITNESS: Senator told me to say, yes, and I thought he was trying to help me, Your Honor.

THE COURT: I doubt if that was so.

MR. PICKENS: I beg your pardon?

THE COURT: I doubt very much if Senator McCarthy was trying to help this witness.

THE WITNESS: Well, Your Honor, I would like to say--

620 THE COURT: Anyway, that is beside the point.

You have given your reason, and that is what you have said.

You are telling me, though, now, I take it, that, in fact, you didn't know what the purpose was?

THE WITNESS: I didn't.

THE COURT: But you thought it was a general investigation of racketeering in labor?

THE WITNESS: I did from the start to finish, Your Honor.

THE COURT: Yes.

BY MR. PICKENS:

Q. Thereafter, did information come to you that a select committee had been set up to investigate labor racketeering? A. I didn't quite get that.

MR. PICKENS: Well, perhaps I should address myself to Your Honor.

Your Honor, I think, has made a statement or rule previously that as far as you were concerned, there was no issue of purging in this case.

THE COURT: No, I don't think there is. I still think so.

MR. PICKENS: So perhaps the way for me to preserve my record is to make an offer of proof rather than attempt to question this witness.

621 THE COURT: Yes, I think so.

MR. PICKENS: May I do it at this time?

THE COURT: Do it now.

MR. PICKENS: May it please the Court, we offer to prove that on January 30, 1957, immediately after the Senate Select Committee was established, that the Defendant LaPoma, along with Frank W. Brewster, sent a telegram to Chairman McClellan, that he would appear and testify and produce such records as the Select Committee would require.

Two, that on or about February 15, 1957, prior to the adoption of the Senate Resolution citing Defendant LaPoma to the United States Attorney for contempt action, that the Defendant LaPoma, at the request of the investigators, Messrs. Bellino and Thompson, for the Senate Select Committee, turned over all the records of Local 174 to that

Committee in Seattle, Washington.

And three, that Chairman McClellan withheld such information, along with the information contained in the telegram of January 30, 1957, from the United States Senate, when he presented to the Senate on February 19, 1957, the resolution citing the Defendant LaPoma for contempt.

THE COURT: Well, I think you had better explain what you mean by that.

622 If these documents weren't or the telegram wasn't sent until after Senator McClellan asked for a citation, how can you say the Senator was withholding that knowledge from the Senate?

MR. PICKENS: Well; the investigators, as a matter of fact, had been looking at the books for some two or three days and both of these telegrams were sent to the Senator prior to the time that he appeared on the floor of the Senate and asked for this action.

THE COURT: Citation? I thought you said they were sent on the 30th?

MR. PICKENS: That is January 30. Perhaps I misspoke. January 30.

THE COURT: I understood that.

MR. PICKENS: And the contempt citation was the 19th of February.

THE COURT: Oh.

MR. PICKENS: I am sorry, Your Honor, I probably misspoke.

THE COURT: No; I just misunderstood you. That makes it clear.

MR. PICKENS: I notice throughout the hearings I am always referring to January as June. I don't know why.

And four, that Defendant LaPoma has since been served with a

623 subpoena to testify, and has offered to testify before the Select Committee; but that on turning over of the said records, he has been excused in writing from further appearing and testifying by Carmine S. Bellino, staff accounting consultant to the Senate Select Committee.

That is our offer of proof, Your Honor, to prove that it is our theory that fundamentally the Congress has authority to protect its

processes, to protect its legislative processes by the power of contempt.

That the power of contempt does not derive from the Constitution. That the power of contempt originally ran only to the end of each session.

That the power of contempt was not in the way of retribution or to reform the contemnor. That it was to protect the processes of the Senate.

Once the contemnor had testified or offered to testify--or, we will say, had testified, that the power to punish was exhausted. It no longer existed.

Now, it is our contention that even though Congress could adopt Title II, Section 192, and provide that the incarceration could be for one year with perhaps a $500 fine, rather than only until the end of the Congress, that the nature of the power is still the same; and that once Defendant LaPoma had turned over his records and was excused from
624 further testifying, that the power of contempt is exhausted, even though it is by Federal statute; and that, therefore, he is not guilty of contempt.

That the Congress can't create by statute greater power than it already possessed. And that was solely the power, to protect its own processes; and not a power to punish or reform contemptuous witnesses.

THE COURT: I understand your position.

MR. PICKENS: Did Your Honor rule on my offer of proof?

THE COURT: Well, maybe I didn't formally. I reject that proof.

* * * * * * *

630 CROSS EXAMINATION

BY MR. HITZ:

Q. Mr. LaPoma, I understood you to say yesterday that you merely glanced at the mimeographed statement that Mr. Bassett, your lawyer, had received from the Chairman, and that you did not read it.
631 Is that the way you testified yesterday? A. Is that the mimeographed sheet that was passed--

Q. Yes. A. --out on the 15th?

Q. That is right. A. Yes, that is correct.

22

Q. Was it the 15th or the 16th that it was passed out? A. Well, the day of the first hearing--before the first hearing, let's put it that way. I know a mimeographed sheet was passed out.

Mr. Bassett received one and Mr. Brewster received it but I did not receive any.

Q. You didn't? A. No.

Q. And which one was the one you read? A. I evidently figured that that is the only one that I knew of, was on the first hearing.

Q. You mean, you read Mr. Bassett's copy of it? A. No, I didn't completely read it. He didn't tell me what it was. I glanced over it and handed it back to him. I figured he's my attorney; he would advise me what to do.

Q. Now, on that day the Chairman said on Page 48 of Government's 8:

632 "May I ask you if you were supplied this morning with a mimeographed copy of the statement the Chair made at the opening of this series of hearings, in which the Chair pointed out the purposes of these hearings and the subject matters that were under the committee's investigation?"

And you said, "I read such a copy".

Now, you didn't tell the Chairman then that you just glanced at it, Mr. LaPoma. A. Well, Mr. Hitz, my attorney was sitting next to me and I figured any advice that I would need I would have to get from him in regards to that mimeographed sheet, but I did not read that statement completely.

Q. What caused you to tell the Chairman that you did without any exception to that? A. Well, for the simple reason my attorney was sitting there. Any advice that I would have to have I would get from him.

Q. Was he telling you what to answer? A. No, not at that present time, but any question that I would--that would come up in the future after that statement I would sure ask him.

That was my privilege.

Q. And then the Chairman, immediately after you said, "I read

such a copy" the Chairman said:

633 "You read such a copy and, therefore, you understand what the committee's interest is, and the purposes of the investigation?"

And your answer to that is "Yes".

That was not true? A. As far as I am concerned, Mr. Hitz, I still say and I have said that before that as far as I am concerned it was only in connection with racketeering.

Now, whatever that statement had in it--I make the same statement--I did not read that statement.

Q. Then your answer "Yes" to the Chairman without qualification is not true.

Is that right? A. Will you repeat that again, please?

Q. The Chairman said:

"You read such a copy and, therefore, you understand what the committee's interest is, and the purposes of the investigation?"

And you said, "Yes".

That answer must not be true in light of your present testimony, Mr. LaPoma. A. Well, as I stated, that any other question that may come up that I would ask my attorney. My attorney read that, yes, but I didn't. I glanced over it. I wasn't even told what the statement concerned regardless, as far as my attorney was concerned.

634 THE COURT: You are not answering Mr. Hitz' question.

Ask him again.

BY MR. HITZ:

Q. Which statement, both of which were under oath, Mr. LaPoma, is true:

Your answer to this question: You read such a copy and, therefore, you understand what the Committee's interest is and the purposes of the investigation, or, is it true what you say today, that you never read it and never understood it? A. I have said that I glanced over it when the attorney handed it to me, but I didn't read it completely.

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Q. Did you understand it? A. Well, as far as the understanding part of it I don't know what you mean, Mr. Hitz. I glanced over it and as I stated, that if my attorney--that if anything come up in regard to that that I would have to ask him.

That is what he was present for.

Q. Well, did you ask him what you should answer to the Chairman's question that I read a couple of times this morning? A. I don't believe so unless he whispered to me. I couldn't honestly tell you.

635 Q. I am sorry-- A. I said, unless he whispered to me. I couldn't honestly tell you at the present time.

Q. Now, you were taking your attorney's advice throughout, were you? A. Oh, yes.

Q. Except when you took Senator McCarthy's advice, when you thought he advised you in a friendly way to answer "yes" and you did answer "yes" on one occasion? A. That is correct. I did answer "yes" and Mr. McCarthy said, "You could answer 'yes'".

Q. And you didn't mean to answer "yes", did you? A. I don't know what I meant. I was just following his advice. I thought he was trying to do me a favor, to help me.

Q. Did you think the Chairman was trying to help you? A. I don't know what the Chairman was thinking.

Q. Immediately after you answer "yes", after Senator McCarthy said, "You can answer it 'yes'", the Chairman then came with this question, which has become one of the counts in this indictment, because you not only didn't answer "yes" to it, you didn't answer anything to it:

The Chairman immediately thereafter said on Page 231 of Government's 8:

636 "Then you know the purpose of the investigation, and, notwithstanding that knowledge, your knowledge of it, and the statement the Chair has made here in open session as to those purposes, you still refuse and decline to comply with the subpena with respect to the producing of the records it calls for?"

And you refused to answer that question. A. That is correct.

I was advised by my attorney.

Q. In what fashion did he advise you not to answer that question? A. Well, it is--now, are you talking about the 19th or still the 16th?

Q. I am talking about that question on the 19th. A. The 19th?

Q. Yes. A. Well, in regard to the statement--

Q. I beg your pardon? A. The statement that I read--

Q. Mr. LaPoma, you either aren't listening to my question or you don't understand my question. I am asking you: You said that you answered that you would refuse to comply with Senator McClellan's question. You said that "my attorney told me to refuse".

637 How did he convey that to you? A. Well, on the 16th I read a statement.

Q. I am speaking of the 19th, sir. A. Well, I am going to come to the 19th, Mr. Hitz, if I have the privilege of answering the question.

I read a statement--

THE COURT: You may.

THE WITNESS: I read a statement there on the 16th which also applied on the 19th. In regards to my attorney, he definitely told me as far as the statement, that I refer back to the statement on the questions and that was the reason I didn't answer those questions, sir.

BY MR. HITZ:

Q. What caused you to answer Senator McCarthy's question immediately before? A. Well, you might say that I probably wasn't thinking fast enough.

Q. That what? A. You might say that I probably wasn't thinking fast enough.

Q. Well, how about your attorney, was he thinking fast at that point and giving you advice? A. Probably at that point he wasn't thinking fast enough.

Q. Now, here is another occasion, and these are all questions and answers following. I am not skipping around.

638 Still on Page 231, after you refused to answer the Chairman's question about understanding the statement and the purpose of the investigation, in which you worded it this way, "In regards to the statement that I have read, I decline to answer that." the Chairman then went right on:

"The Chairman. You are ordered and directed to answer the question.

"Mr. LaPoma. I decline for the same reason.

"The Chairman. I am going to ask you, were you present here in the room? You are denying that you were here in the room and heard the reasons assigned by the Chair?"

And you decline to answer that. You said, "I didn't decline that. I said" -- I am sorry -- you said, "I didn't decline that. I said yes on that."

Now, that had to do with your being present in the morning when Mr. Brewster testified. This is the second occasion when you said you were present and Mr. Brewster testified and here you say you were present when the Chairman advised him of the purpose of the Committee.

Yesterday you said that you were in and out.

Which is true. A. That is correct.

Q. Which is true? A. I was in and out.

639 Q. You were? A. Yes.

Q. So your testimony then-- A. If the doorman was present, if he could identify me he would sure state that and also Senator Jackson; that I asked him if he could possibly get a seat in there.

Now, I am talking about the little room. I was never in the large room that they hold the meetings in at the present time. And it was packed like sardines, I explained, the room in there.

The only two days that we--the only day, rather, that I had a seat in there was when Mr. -- an old fellow from New York, Reiss or Rice or something, was on the stand; that we were not excused until after the hearings were over.

That day I did have a seat against the wall by the coathanger

that was standing near the door. I did have a seat that day while he was being questioned. But at no time did we ever have reserved seats for the witnesses - not one day.

We stood out in the hall and come in and went back out in the hall right by the door there--with the doorman was present--in fact, I spoke to him.

Q. Now, the first time that the Chairman asked you if you were present during Brewster's testimony and heard the purpose of the inquiry

640 given by the Chairman you answered "yes" but you explained that Senator McCarthy, in a friendly way, urged you to answer "yes" and that is why you did.

Just a little bit later than that though the Chairman said:

"I am going to ask you, were you present here in the room? You are denying that you were here in the room and heard the reasons assigned by the Chair?"

And you said, "I didn't decline that. I said yes on that."

What caused you to say "yes" then? A. Well, Mr. Hitz, I have never been before a committee hearing. There's been smarter men that I have that have been before committees and also have been confused as far as questions that have been asked by the different committees, the chairmans of different committees.

There's been attorneys that's been before those committees and I am an ordinary layman. In comparison, an attorney should know what answers they should give and in quite a few cases they haven't. So that part, there is just confusion you might as well say.

Q. Are you confused or are you at ease here this morning as you testify and as you did yesterday? A. Well, I am at ease, yes, very much so.

* * * * * *

641 RUTH Y. WATT

was called as a witness by the Defense, and being then and there duly sworn by the Deputy Clerk, assumed the witness stand and testified as follows:

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THE COURT: Are you looking for an exhibit?

MR. PICKENS: May I have Defendant's 13 and 14 for a moment?

DIRECT EXAMINATION

BY MR. PICKENS:

Q. Miss Watt, will you state your full name and address, please? A. Ruth Young Watt.

THE COURT: Can you speak a little louder?

THE WITNESS: Surely. Ruth Young Watt, W-a-t-t. You want

642 my home address?

BY MR. PICKENS:

Q. Either your home or business. A. 101 Senate Office Building.

Q. Miss Watt, in January of 1957 what was your position or occupation? A. I was Clerk of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations.

Q. Did you hold that position on August 1, 1956? A. Yes, sir.

Q. And were you Clerk of that Subcommittee during the interim from August 1, 1956, -- A. Yes.

Q. --to January, 1957? A. Yes, sir.

Q. And that would include the hearings that took place on January 16th, 17th, 18th, and 19th? A. Yes, sir.

Q. I show you a copy of a letter dated November 6, 1956, a copy of which is Government's Exhibit--I am sorry--Defendant's Exhibit 13 in this case and ask you if you have ever seen that copy or the letter before? A. No, I have not. No, I have never seen this before.

MR. HITZ: I can't hear you, Miss Watt.

THE WITNESS: I haven't seen this before. It didn't go over my desk.

643 BY MR. PICKENS:

Q. I show you a copy of Government's Exhibit 14, which is the original which is a memorandum from Mr. Adlerman to Mr. Kennedy, dated November 3, 1956, --

MR. HITZ: That is Defendant's 14.

MR. PICKENS: I am sorry. Defense Exhibit 14.

BY MR. PICKENS:

Q. Have you ever seen that report before? A. I would not have seen it, no.

Q. Now, between August--well, were you familiar with the fact that that report had been made from Mr. Adlerman to Mr. Kennedy? A. No, I wouldn't necessarily have seen it.

Q. Well, did you know of its existence? A. No.

Q. Now, do you know of the existence, we will say, of any reports that were made between August 1, 1956, and January 16, 1957, from any investigators--I mean, Mr. Bellino, Mr. Adlerman, Mr. Duffy, or any of the other investigators, to Mr. Kennedy? A. None of that would go over my desk. I would not see any of it unless it were put in evidence at a hearing.

Q. Would you be--well, did you know--well, if there were, did you know there were any such reports? A. I wouldn't necessarily
644 know it, no.

Q. Well, now, do you know of any reports from Mr. Kennedy to Chairman McClellan or any members of the Committee during this same period, August 1, 1956, to January 16, 1957? A. No, I wouldn't--any material like this, I would not have. It wouldn't go over my desk at all.

Q. And you wouldn't be familiar with any of it? A. No.

Q. Your testimony is the first time you would be familiar with any reports would be at the time they are introduced in evidence at a hearing, if they were? A. That is right. That is not part of my work; therefore, I would not have it.

Q. Do you ever have occasion to look at the files of the Subcommittee? A. I have access to them but unless it is something that is part of my work I wouldn't have the time to go over them. So it would not be part of the duties that I have.

Q. Well, of your own knowledge or do you know of any reports or any data of any kind that are in existence in connection with these

hearings on January 16th through the 19th, that came into existence between August 1, 1956, and January 16, 1957? A. You mean, staff memos?

Q. Staff memos. A. No, I wouldn't have--unless it--

645 Q. Any sort of data whatsoever. A. Unless it was a notice for a hearing or a notice for an executive session or the actual sessions or exhibits going into the hearings, I would not, unless it were financial for the Committee.

Q. Unless they were finance exhibits? A. Well, they wouldn't be finance exhibits. They would be anything to do with the finances of the Committee itself.

Q. Well, do you know of any exhibits that the Committee had, that you have personal knowledge of, in connection with these hearings between January 16th and January 19th, 1957? A. You mean, that were put in in evidence in an open hearing?

Q. Well, let's say are you familiar with the forms that are required to be filed under Section 9(f) and (g) of the Taft-Hartley Act? A. No, I wouldn't be familiar with those.

Q. Well, do you recall any of the exhibits that were put in evidence?

THE COURT: Well, that is too broad a question.

THE WITNESS: They are--as soon as the--

THE COURT: Don't answer that, madam.

MR. PICKENS: Well, I am trying to find out, your Honor, if

646 she has any--

THE COURT: I know, but your question is does she know of any exhibits which were put in evidence. That could well--

MR. PICKENS: Well, is she familiar with any.

THE COURT: There is no horizon there.

BY MR. PICKENS:

Q. Are you familiar with the exhibits that were put in evidence between January 16th and January 19th in the hearings? A. If they had gone into evidence and I saw them I could tell if I recognized them,

but as soon as the hearing is over they are turned over to our staff editor and they are no longer in my jurisdiction.

Q. Do you know of any exhibits that the Committee had that were not put in evidence-- A. No.

Q. --on this subject between January 16th and January 19th? A. No, I wouldn't know of those unless they were exhibits, the exhibits in the open hearings or executive session.

Q. Now, what hearings did the Subcommittee hold, and I am including executive sessions during the month of January, 1957?

647 THE COURT: What do you mean by that and what is the materiality of it?

MR. PICKENS: Well,--

THE COURT: First, what do you mean by it?

MR. PICKENS: First, I want to know the dates on which the Committee held meetings during January.

I can ask her this way:

BY MR. PICKENS:

Q. Other than the meeting on January 10th and the meeting on January 14th and the hearings from January 16th to 19th, do you know of any other Subcommittee meetings during that month? A. Not that I know of but I would have to consult the records. We have so many of them, but I would have to look at my records.

Q. Well, could you consult the records and let us know? A. Surely.

THE COURT: Well, when? You mean now?

Do you have your records now?

THE WITNESS: No, I--

BY MR. PICKENS:

Q. Do you have the records with you? A. No, I don't have any records--

THE COURT: I am not going to prolong this matter for that.

648 As a matter of fact, don't you know yourself, Mr. Pickens?

MR. PICKENS: I beg your pardon, your Honor?

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THE COURT: Don't you know yourself?

MR. PICKENS: No, I don't, your Honor. That is one of the reasons I called her.

THE COURT: Well, couldn't you have found out by interviewing her before she came down here and got the records if you think they are material?

I don't see that they are, but they may be, but I am not going to let this witness go back to the Capitol and bring back here some material that may not even be relevant in this case.

We are concluding this case today.

* * * * * * *

649 WALTER L. REYNOLDS

was called as a witness by the Defense, and being then and there duly sworn by the Deputy Clerk, assumed the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. PICKENS:

Q. Will you state your full name and address, please? A. My name is Walter Reynolds. I am Chief Clerk - Staff Director of the Committee on Government Operations, United States Senate.

Q. And did you hold that position during January and March of this year? A. Yes, sir.

Q. Mr. Reynolds, are you familiar with the fact that there was a meeting of the Government Operations Committee on January 14, 1957? A. Well, I wouldn't recall the exact date but we do have a meeting--

THE COURT: A little louder, please, sir.

THE WITNESS: We do have a meeting at the beginning of each session of Congress for organizational purposes and to consider other matters and it is usually about that time.

BY MR. PICKENS:

Q. Is it not your practice in connection with these meetings to have a full transcript of everything that is said at the meetings taken

650 down? A. Only in those cases where there is some question

involved in connection with citations for contempt. The Assistant Clerk of the Committee merely makes notes about the conclusions of the Committee in connection with any matters discussed there at the meeting.

Q. Now, I believe a subpoena was served on you in this case calling for certain documents and testimony.

Do you recall that? A. I submitted a number of them in connection with various cases to Mr. Hitz. I presume that that--as I recall, that was one of them but I am not sure in this case.

Q. Now, in connection with that subpoena did you personally go through the files and sort out the records that were called for in that subpoena? A. No. That is, again, the job of the Assistant Clerk who keeps all the minutes and all the records. They are under my direct supervision but in matters of this sort, why, I rely on her to prepare them.

I always check them and verify them before they are made an official part of the record.

Q. Who was the Assistant Clerk? A. Ann Grickis.

Q. And is she the one that complied with this subpoena insofar as digging out the records concerned? A. Well, in a way, yes, but

651 I checked over the material she prepared to see that it was accurate, if that is what you mean.

Q. Well, do you have any knowledge of whether there was material there other than what she dug out or pulled out of the files?

Did you check to see if there was other material? A. I did.

Q. And did you determine there was no other material called for in the subpoena? A. That is correct.

* * * * * * *

663 MR. HITZ: Your Honor, I have some rebuttal testimony on

664 the subject matter of the reason why the Subcommittee did not seek to obtain the Forms 990 from the Treasury Department, an explanation of that from Mr. Kennedy.

I told Mr. Kennedy yesterday afternoon that I desired him today as a rebuttal witness and he misunderstood the time that he was

supposed to be here and he went to New York last night.

And I think by the time this matter is straightened out--

THE COURT: Everything happens to me; at times, that is.

MR. HITZ: I feel quite confident that he will be here at the time we conclude this next matter. If he isn't here--

THE COURT: Well, the next matter will be concluded in ten minutes, you tell me.

MR. HITZ: Well; then we have to come back to court and there may be some discussion on it but at that time if Mr. Kennedy isn't here I will then decide whether to close the case without that rebuttal testimony or to ask your Honor to indulge us until he gets here.

THE COURT: Well, have you any idea whether he will be here?

MR. HITZ: His secretary told me that he was under the impression that he wasn't needed until 11:30. I may say that I do not

665 know how he obtained that impression. And he is apparently--

THE COURT: When did you talk to his office?

MR. HITZ: I talked to his office this morning and obtained that information. He apparently is in the air now traveling here, and I did leave word for him to come from the airport to here instead of to his office.

THE COURT: Well, I suppose that makes two of us in the air. You look, Mr. Pickens, this over.

MR. PICKENS: I beg your pardon, your Honor?

THE COURT: You look this over. I will take a recess and suppose you call me when you are ready. Now, it is possible, although I guess improbable, that you could stipulate what Mr. Kennedy would say if he did come back. I doubt that, of course. I believe if I were in your position I wouldn't do it. But I am not trying the case; you are. But it is still possible.

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669 OPENING ARGUMENT BY COUNSEL FOR GOVERNMENT

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681 Now, in addition to asking Your Honor not only to give a distortedly narrow meaning to the "government activities at all levels with a view to efficiency and economy," to give it a strained and narrow and much too-narrow meaning, and unnaturally narrow meaning, Mr. Pickens puts great emphasis on the inconsistencies, as they appear to be--and I think they are--in the Reorganization Act as a whole.

Now, it may well be that if the watchdog provision, the oversight provisions of the Reorganization Act, Section 136, found on Page 26 of Government 1, that if those functions were actually performed, and if the committees were set up in such a fashion that they could investigate and hold hearings on the legislative oversight of the various governmental agencies generally within their substantive purview, that there wouldn't be any need for having any Government Operations Committee at all.

However, the Congress saw fit in 1946 to create that committee with those very broadly-worded powers, so that they must have had something in mind.

682 But it isn't for the Court to try and say that the Congress has been inconsistent in the provisions of the Reorganization Act, and since the various standing committees, other than Government Operations, could have covered the field had they properly acted in the realm of their substantive authority, that the Congress then didn't make sense when it created the Government Operations Committee; and we are going to hold that not only its purposes were very narrow, but that they are non-existent.

There are inconsistencies there, and they cannot be fully resolved; and it certainly is not the function of the Court to state that because there may be some overlapping in functions of committees created by the Congress, itself, that we are going to say that the proper function of this committee is to act here, and here alone, and if there is any overlapping, there cannot be any overlapping.

That is a matter of housekeeping for the Congress.

807 REBUTTAL ON BEHALF OF THE GOVERNMENT

812 Mr. Pickens has reiterated one of the themes of his defense, which is that the Committee, finding that they were in an area in which they had no jurisdiction, and realizing it, that they surrounded themselves with an aroma of governmental activity to come within the expression of authority of this Committee, as stated in the statute, and that it was an afterthought on their part.

Mr. Kennedy has told us, and we have documents to show, that it was not an afterthought; that they had proceeded precisely along the same line, that is, reaching the Government documents--they found that the unions in New York had mishandled their funds.

There is no point in going--

THE COURT: The Ninth Circuit opinion bore that out; didn't it?

MR. HITZ: It certainly did.

THE COURT: Didn't Mr. Kennedy testify here that at least he, as a representative of the Committee, was aware of the Ninth Circuit opinion in the Local 174 case before he talked to Mr. LaPoma?

813 MR. HITZ: That is correct; and that that body of information was part of what caused him to subpoena LaPoma and the others.

But, as Mr. Kennedy pointed out, there is no point in going to Government records, that is, the papers on file with the Labor Department, to find out if there were certain revelations of misconduct, which, of course, he didn't expect to find, unless he was going to find out if there were exclusions of information, if there were voids in the information supplied.

After having found that there were acts of misconduct on the part of the officers of the union. That is the way that logically and in regard for the necessities of time, that a committee would enter the field of the public records.

They would find the evil first; and then find out if the evil was reflected or whether it was hidden in the records. And that is what

they did in the New York investigation by obtaining the same records from the Labor Department that they ultimately got from the Labor Department in this case, earlier with regard to the New York unions.

It was not an afterthought. It was a necessary procedural step taken in the order in which he thought best to take it.

814 Now, Mr. Pickens makes much of the fact that the Committee never did obtain the 990 records from the Treasury Department, indicating, I suppose, that if the Committee authority to obtain those records and look at them obtained from the President had run out in 1956, at the end of the year, that they should have anticipated that and obtained them in time for these hearings or postponed the hearings; and the fact that they didn't do it indicated that they were not investigating the forms at all.

Well, there are two answers to that. One answer I tried to get from Mr. Kennedy; and I will make it now by way of argument, and not by way of evidence, as I would have had he testified.

The evil that is present with respect to non-disclosure of misuse of funds to the Treasury Department, the evil there is consummated at the time that the labor union officials misused the funds. They committed a fraud upon their unions. They acted in a way which would defraud the Internal Revenue by funneling those funds into their own pockets or for their own use. The funds being funds that were treated as charitable funds, that is, tax-exempt, and yet, when they reached the pockets of the officials, they were not taxable income there, because they were not reported.

815 There is where the evil was. And that evil was an evil within the realm of the Government activity of the collection of taxes--an area in which this Committee has clear authority.

Now, that was at the time of the misuse of the funds that the evil was consummated. It wasn't at the time of the failure to inform Treasury about it.

So that the importance of looking at the forms to find out if there had been any concealment of this activity was incidental and secondary.

THE COURT: What was primary?

MR. HITZ: Primary was the fact of the misuse of the funds.

Now, that doesn't pertain to the situation as to the Labor forms. The evil was consummated there not at the time of the misuse of the funds; but it was consummated at the time of the concealment, which is the filing.

THE COURT: Yes.

MR. HITZ: So Mr. Kennedy realized all that. His interest--

THE COURT: I am not clear as to the distinction you are making.

MR. HITZ: Well, the evil that was within the Committee's purview to uncover in the case of the tax forms was an evil that was consummated at the time of the misuse of the funds.

816 THE COURT: Yes. And in the other case, at the time of the filing.

MR. HITZ: And in the other, at the time of the filing.

So when Mr. Kennedy and his staff in the Committee were greatly interested in seeing whether there was concealing or not in the Labor Department files, and the extent of it, they were then concerned with the two functions of the Labor Department:

One was the acceptance and filing of forms that would comply with the statute, so that the labor union then could be considered to be in compliance, and could go to the NLRB. That is Function One.

The other function of the Labor Department is to be the custodian of financial reports and other types of reports from the union, so that they may be inspected and inspectable by the membership of the union there and elsewhere, in a self-policing effort of Government supervision of unions.

That is one of the purposes of that statute. So that again that emphasizes that it is the filing function and the actual forms that were important in the Labor Department: and that is not true of Treasury.

However, it was never contended by Mr. Kennedy, nor by the

817 Chairman, that the investigation was as narrow as Mr. Pickens

has finally made it toward the end of his argument, namely, it was never the investigation of forms filed with the Treasury and with the Labor Department.

That is what Mr. Pickens has finally simplified this case down to, so that he says we have no jurisdiction unless the forms were subject to investigation.

In that connection, so as to complete his argument, he said the Committee was interested in remedial, substantive legislation and not forms; and, therefore, the investigation is beyond even the scope that the Committee had set for itself.

First of all, at no time did the Committee ever set for itself the investigation of the forms; and I don't think I need to read from the record to substantiate that statement.

Nor does the Chairman at any time state that the principal purpose or even the important purpose of the investigation was to determine the necessity or the advisability of substantive legislation in the field of labor or finance.

The Chairman was at all times, according to his own statements, as much interested in the efficiency and the economy of the interpretation by these various Government officials of their duties under
818 existing statutes. He was more interested in that than he was in enacting or recommending the enactment of substantive legislation in the field.

In fact, his interest for legislation in the field would have gone, so far as I am aware of the record, no farther than recommending that there be no tax exemption for unions which either refused to produce their records for examination, or who filed reports that concealed misuse of funds.

I do not believe that where there has been this evil uncovered, either of misuse or non-divulgence, or unwilling to permit inspection, that to deny tax exemption by legislation would be a substantive change in the law.

It would be strictly procedural, in my opinion. But it could

be accomplished by acts far less than new law. It may well be--

THE COURT: By amendment, possibly, to existing law.

MR. HITZ: By amendment to existing law very clearly. But short of that, by regulations perhaps of the President or possibly even by the Treasury Department, itself.

Now, on Page 2 of Government 8, what I say is substantiated. The Chairman said at the commencement of these hearings, in the middle of the page:

819 "The subcommittee is aware of recent court decisions which may sharply limit and restrict the right of Government agencies such as the Treasury Department, the Bureau of Internal Revenue, the Department of Labor, and the National Labor Relations Board to investigate and determine the accuracy, truthfulness or falseness of various reports the unions and their officials are obligated to file. We intend to ascertain whether, in view of these court decisions, the responsibilities of the Government in this area under existing law are being administered efficiently and economically."

Mr. Pickens, I say, does not have the foundation in the record to state that the purpose of the Committee was in a field of substantive law, which was exclusively within the field of the Labor Committee as to those forms and those divulgences to them for the purposes of getting to the NLRB, or in the realm only of the Finance Committee of the Senate with respect to the Treasury divulgence of forms.

And again--and this time in the presence of Mr. LaPoma, himself--it was clear for Mr. LaPoma and Mr. Bassett, in making

820 their decision whether to produce or whether to reply to questions, that it was the purpose of the Committee to also and principally to look at the administration of this governmental activity, or these governmental activities under existing law; because the Chairman stated, on Page 52 of Government 8, to Mr. LaPoma:

"I think this committee, beyond any question of doubt, has a right to inquire into it and see if Government is operating

efficiently, if law or administrative action is needed to correct inequities or injustices or to prevent fraudulent or imposition on the Government, which would certainly diminish its efficiency if such fraud is committed on the Government in order to obtain certification or letters of compliance."

Now, actually, our record is to the effect--so far as the union was concerned, over and above what the Labor Department, the NLRB and the Treasury Department could do, or was doing, or felt that it had to do, that is, felt that it didn't have the power to investigate the truthfulness of the forms--apart from that, is that the purpose of the Committee with respect to the labor unions was the investigation of union activity, principally the misfeasance and malfeasance of its
821 officers, with respect to union funds, which union activities had an impact upon the governmental activity of the Labor Relations Board, the Labor Department, the Treasury, in the granting of rights with respect to supervision of labor-management relations on the one hand, and tax exemption on the other.

I do not see how it is possible to conjure up a set of facts that would more clearly indicate that this Committee was properly within the scope of its authority, and was acting there with a legislative purpose--to conjure up a set of facts that would more clearly be within its authority.

* * * * * *

832 I do not agree with Mr. Pickens and I think he tried to get some comfort from the Watkins case to the effect that the continued approval by way of voting some appropriations and sometimes even greater appropriations to similar investigations, perhaps, even broader in scope, it does not indicate anything with reference to the Committee's
833 authority and particularly cannot give new authority to the Committee.

We don't think it can give new authority to the Committee, of course. The authority is in the words and in the interpretation that should logically be given to the words of the statute. However, continuous approval of investigations that go into the subject matters that

were of the breath of those recited by Judge Sirica, some, foreign affairs and activities abroad, approval and continued appropriations for purposes such as that, indeed, for those, indicates not only an approval of those and similar activities by this Committee within its authority but they are interpretive of the authority.

We don't say that it gives new authority, of course, to grant appropriations each session or in a number of periods within a session because they run out of money before long and there are frequently two and three appropriation bills within a session of Congress for a particular subcommittee's use. They are continual interpretations of the authority of the subcommittee and they are part of the legislative history.

* * * * * *

838 MR. HITZ: I was careful when I made my point concerning the present loopholes or future legislation of a substantive sort to say that the principal purpose of the Committee was the administration of existing law.

THE COURT: And not to the exclusion of--

MR. HITZ: Not to the exclusion of substantive law.

THE COURT: I understand that.

* * * * * *

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No. 219

In the Supreme Court of the United States.

OCTOBER TERM, 1958

UNITED STATES OF AMERICA, PETITIONER

v.

FRANK BREWSTER AND NUGENT LAPOMA

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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In the Supreme Court of the United States

OCTOBER TERM, 1958

No. ——

UNITED STATES OF AMERICA, PETITIONER

v.

FRANK BREWSTER AND NUGENT LAPOMA

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

The Solicitor General, on behalf of the United States, prays that a writ of certiorari issue to review the judgments of the United States Court of Appeals for the District of Columbia Circuit, reversing the contempt convictions against the respondents.

OPINIONS BELOW

The opinions of the Court of Appeals (B. 528a–534; L. 480–481; App., *infra*, pp. 35–41, 43–44)[1] have not yet been reported. The opinion of the District Court in the *Brewster* case (B. 31–49) is reported at 154 F. Supp. 126.

[1] The record lodged herewith includes the Brewster joint appendix in the Court of Appeals, designated "B."; the Brewster trial transcript referred to as "B. T."; the LaPoma joint appendix designated as "L."; and the LaPoma trial transcript referred to as "L. T.".

JURISDICTION

The judgments of the Court of Appeals in both *Brewster* v. *United States* and *LaPoma* v. *United States* were entered on April 15, 1958, and petitions for rehearing *en banc* were denied on May 27, 1958 (B. 535–543, 570; L. 482–484, 486; App., *infra*, pp. 41–43, 44–45). On June 27, 1958, by timely order of the Chief Justice, the time within which to petition for certiorari was extended to and including July 26, 1958.

QUESTION PRESENTED

Whether, in the course of its investigation into labor union financial reports filed with the Department of Labor under the Taft-Hartley Act and into the tax exempt status of unions filing false reports, the Investigating Subcommittee of the Senate Committee on Government Operations, under its authority to study "the operation of Government activities at all levels with a view to determining its economy and efficiency", was empowered to subpoena union officials and inquire of them as to the authenticity and veracity of reports which they had filed with the Government agencies.

STATEMENT

On March 18, 1957, separate indictments were filed in the United States District Court for the District of Columbia against respondents Frank Brewster (31 counts) and Nugent LaPoma (5 counts) charging that each had violated 2 U. S. C. 192 in that, having been subpoenaed to testify before the Senate Permanent Subcommittee on Investigations of the Com-

mittee on Government Operations, and directed to bring books and records relevant to the matter under inquiry before the Subcommittee, each refused on January 19, 1957, to produce the subpoenaed records, to identify pertinent documents then in the Subcommittee's possession, and to answer pertinent questions put to them at the hearing (B. 1–7; L. 1–3).

Each of the respondents, having waived jury trials, was tried separately by the court,[2] and each was convicted as charged (B. 31–49; 523). Brewster was sentenced to a year imprisonment and a $1,000 fine on each count, the sentences to run concurrently. Payment of the fine was postponed pending appeal (B. 528).

LaPoma was sentenced to 30 days imprisonment and a $1,000 fine on each count, to run concurrently. Imposition of his prison sentence was suspended and he was placed on probation for 1 month; payment of the $1,000 fine was postponed pending appeal (B. 528).

Judge Sirica wrote an opinion in the *Brewster* case holding "beyond any doubt" that the Subcommittee had jurisdiction (B. 31–49, 40; 154 F. Supp. 126, 133). In reversing, the Court of Appeals for the District of Columbia Circuit did not make any distinction as to the questions which Brewster refused to answer. Instead, it broadly held that the Committee's authority to study economy and efficiency of government operations does not authorize investigation of persons or entities, in this case labor unions, who are subject to

[2] Brewster before District Judge Sirica, and LaPoma before District Judge Schweinhaut.

Federal regulation, and that no inquiry whatever may be made of the union officials. Justice Reed, sitting by designation, dissented, finding that the opinion of the court constituted an invasion of the legislative prerogative and would improperly hamper Congressional investigations (B. 528a–531; App., *infra*, pp. 35–41). The *per curiam* reversal in *LaPoma* was based on the court's decision in *Brewster* (L. 480–481; App., *infra*, pp. 43–44).

Since both cases involve precisely the same question, and derive from the same hearing before the Senate Subcommittee on Investigations, they are combined in this petition for a writ of certiorari.

The pertinent material concerning the origin and jurisdiction of the Permanent Committee on Government Operations and its Investigating Subcommittee, and a chronology of the events culminating in respondents' contempt convictions, may be summarized as follows:

A. The committee

1. Section 102 of the Legislative Reorganization Act of 1946, 60 Stat. 814–820, amended Rule XXV of the Senate Rules which created and defined the jurisdiction of the Standing Committees of the Senate. Major aims of this legislation were to simplify the standing committee system (15 instead of 33), and tie each Committee to important areas of public policy and administration; to coordinate committee work in both Houses; to establish more direct and intimate contact between each committee and the executive department under its surveillance; and by such modernization to avoid the necessity of establishing special investigatory committees (B. 62–69; L. 7–13; S. Rep.

No. 1400, 79th Cong., 2d Sess.; H. Rep. No. 1011, 79th Cong., 2d Sess.).

Section 102 (1) (g) of the Act (60 Stat. 816) provided for the Standing Committee on Expenditures in the Executive Departments, and granted it, in pertinent part, the following juridiction:

* * * * * *

(2) Such committee shall have the duty of—

* * * * *

(B) studying the operation of Government activities at all levels with a view to determining its economy and efficiency;

(C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government;

* * * * *

The Senate debates introduced into evidence at respondents' trials indicate that this Committee was meant to be empowered with extensive responsibility and authority (see B. 289–292; B. T. 648–669; L. 419–432). For example, Senator La Follette, the principal proponent of the 1946 legislation, agreed with the comment of Senator Hill made during the 1946 debate that (B. 290):

> * * * the bill will give to that committee [Expenditures in the Executive Departments] a jurisdiction and a responsibility and an emphasis which it certainly has not had in the past, and will make it a committee which will look into many matters and will cover many subjects which it has not been able to handle in the past. By virtue of handling them, it will eliminate the need we have had in the past for some of the special committees.

Senator Aiken, an early chairman of the Committee, was of the opinion that S. Res. 189, 80th Cong., 2d Sess., introduced by him on January 14, 1948, would consolidate in the Committee the work of the then Special Committee to Investigate the National Defense Program, expiring January 31, 1948, and the Surplus Property Subcommittee of the Expenditures Committee (B. 300–302; see also B. 293–296).[3]

2. The Investigating Subcommittee was created on February 26, 1948, at an organizational meeting of the parent Committee. It was to consist of seven members and was authorized to proceed with any investigation within the jurisdiction of the full Committee. The minutes of this meeting contain the following entry as to the jurisdiction of the new Subcommittee (B. 59–63, 303–305):

> 2. The principal function of the subcommittee shall be to investigate complaints and information coming to its attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corrupt or unethical practices and waste and extravagance in transactions, contracts, and activities of the Government or of governmental officials or employees.

On March 3, 1952, the Senate voted to change the name of the Committee on Expenditures in the Executive Departments, to the Committee on Government

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[3] While the resolution itself did not provide for the consolidation suggested by Senator Aiken, it authorized the Committee on Expenditures in the Executive Departments, or any subcommittee thereof, to expend $125,000 of its new funds during the second session of the 80th Congress in carrying out its duties under Section 102 (i) (g) (2) (B) of the 1946 Act.

Operations. This was called by Senator Hayden, who introduced the resolution, "a shorter and better title". (B. 297–300; 98 Cong. Rec. 1701–1702).[4] On February 16, 1956, the Senate passed S. Res. 188, 84th Cong., 2d Sess., authorizing the Committee, or any subcommittee thereof, to expend $197,083.34 in carrying out its functions under the Legislative Reorganization Act of 1946 and under Rule XXV of the Standing Rules of the Senate (B. T. 124–125; 102 Cong. Rec. 2666). On January 14, 1957, at a meeting of the full Committee on Government Operations, with a majority present, "[i]t was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigations as its parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946" (B. 57–59; L. 114k–114l).[5]

B. The investigation

1. Commencing in 1955 and extending into 1956, the Subcommittee investigated the procurement of

[4] This change in name was unanimously recommended by the members of the Expenditures Committee. Senator McClellan, Chairman of the Committee, believed "that the proposed new title would be more accurate in defining the purposes for which the committee was created and in clearly establishing the major purpose it serves" (B. 298–299).

[5] During Robert F. Kennedy's tenure as counsel of the Subcommittee (1955–1957) it had investigated, *inter alia*, the "General Zwicker matter"; the building of grain bins in Pakistan; East-West trade; and conflict of interests cases involving government functionaries (B. 284). The Subcommittee has also conducted investigations respecting the U. S. Information Service (see B. 39–40).

supplies by the military and as a result uncovered information revealing a nationwide problem with respect to labor racketeering[6] (B. 54, 83–85; L. 402). Mr. Kennedy, who was Counsel for the Senate Subcommittee on Investigations during this investigation, testified at the *Brewster* and *LaPoma* trials that the procurement investigation, initiated in New York City in 1955, revealed that Local 102 of the International Ladies Garment Workers Union was involved in dealings with non-union shops run by gangsters and racketeers. Further investigation revealed the existence of "paper locals"[7] among teamster locals in the New York area, extensive misuse of union funds, and the fact that financial reports required to be filed by various locals with the Department of Labor under Section 9 (f) of the Labor Management Relations Act of 1947 (Taft-Hartley), 61 Stat. 136, as amended, 65 Stat. 601, were inaccurate and false (B. 123–124, 195–196, 473–478; L. 144–148).

Inquiry made of the National Labor Relations Board and of the Department of Labor revealed that these agencies felt that they could do nothing if these financial reports were false, since the Act was complied with as long as they were filed. The Subcommittee was aware that such filing was required under

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[6] Defined by subcommittee counsel Robert Kennedy as: (1) collusion between labor and management; (2) misuse of union funds; (3) misuse of welfare and pension funds; (4) extortion; (5) use of terrorism; (6) depriving union members of their democratic rights by fear and terrorism; and (7) outsiders "taking over" a labor union to the detriment of the union members (B. 122).

[7] One that has no members and is created for purposes of extortion (B. 476).

the Act, and that labor unions enjoyed an exempt tax status. By November 8, 1956, in the course of this investigation, and prior to the investigation into the Western Conference of Teamsters, the Subcommittee had obtained from the Department of Labor the registration certificates of various New York locals—including Teamster locals—which had been filed pursuant to the requirements of the 1947 Act (L. 29–42).

Because of the close ties found to exist between the union officials under investigation in New York and high officials of the Teamster Unions, and the disclosure of extensive misuse of union funds by union officials which was not reflected in these financial reports, the Subcommittee decided to broaden its investigation. In November and December 1956, it conducted an investigation on the West Coast [8] (L. 144–148, 164–167; B. 123, 195–196, 225–228, 276, 483–489). The primary aim of the West Coast investigation was to determine whether, in that area as well, there was misuse of union funds, whether false financial reports were being filed with the Department of Labor, and whether remedial legislation was needed to increase the efficiency and economy of the Government activities involved (B. 124–125, 195–196).

The West Coast investigation revealed information indicating that respondent LaPorta had used for personal purposes the funds of Teamster Local 474.

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[8] Mr. Kennedy stated the New York investigation in 1956 was postponed because of the acid throwing incident involving Victor Riesel and the consequent indictment of Johnny Dio (B. 230).

Seattle, Washington, and that respondent Brewster had used the funds of Teamster Joint Council 28 of Washington and those of the Western Conference of Teamsters[9]—in fact, that much the same situation obtained as in the New York area (B. 191–192, 196, 209–210, 212–213; L. 144, 148–150, 153–154, 157, 164, 175). As a result of further inquiry made of the National Labor Relations Board early in January 1957, and in discussions with executives of that body and of the Department of Labor, the Subcommittee was informed that the Western Conference of Teamsters did not file financial reports, and that the law was unclear as to whether such an organization had to file (B. 125, 196, 369–371; L. 170–171).

The investigators also discussed with officials of the Internal Revenue Service misuse of union funds by Teamster Union officials, and its effect upon the unions' tax exempt status. The Service indicated its interest in particular instances of misuse since the annual information returns filed by unions received a very limited perusal by the Service due to a manpower shortage. The investigators were further informed that the Service had authority to revoke a tax

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[9] As Mr. Kennedy explained it, the makeup of the Teamsters organization consists of an International Brotherhood, the Eastern, Southern, Central and Western Conferences, joint councils and local unions. The Western Conference of which Mr. Brewster was Chairman comprises the joint councils of 11 western states. He is also the president of Joint Council 28, State of Washington, and President of Teamsters Local 174, Seattle, Washington. Mr. LaPoma is Secretary-Treasurer of Local 174 (B. 124–125, 440; L. 151–152, 446–447).

exemption if the union refused to turn over its books and records, but it had never done so (B. 76–81).[10]

In conjunction with this broad investigation into teamster operations on the West Coast, two subpoenas were issued on December 15, 1956, to Mr. Brewster in his capacity as Chairman of the Western Conference of Teamsters, and as president of Joint Council No. 28, directing him to appear before the Subcommittee in Washington, D. C., on December 27, 1956, to testify to what he knew relative to the matter under investigation and to produce the records of these two organizations for the period January 1, 1951, to December 31, 1955, "including cash receipts and disbursements, canceled checks, general ledgers, bills and invoices, bank statements, canceled checks, check stubs, correspondence files, memorandums and minutes of meetings" (B. 137–138). The date of Brewster's appearance was subsequently postponed until January 15, 1957 (B. 135–136).

Similarly, on December 15, 1956, Mr. LaPoma was subpoenaed to testify before the Subcommittee in Washington, D. C., on January 15, 1957, in his capacity as Secretary-Treasurer of Local 174, and

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[10] The policy of the Service was sought by the Subcommittee in this connection in view of the Ninth Circuit reversal, on November 8, 1956, of a district court order for Local 174 to produce its financial records for inspection by the Internal Revenue Service in an investigation auditing the income tax returns of Brewster for alleged misappropriation of the union's funds. The decision of the Court of Appeals was grounded on the theory that the books and records must be relevant to the tax liability, a question to be determined in the first instance at a hearing before the district judge. *Local 174, Etc.* v. *United States*, 240 F. 2d 387 (C. A. 9).

directed to bring with him the records of that organization from January 1, 1951, to December 31, 1955 (L. 385).

2. Early in January 1957, and prior to the scheduled hearings in Washington, D. C., Committee Counsel Kennedy reported to Senator McClellan, Chairman of the Subcommittee, and of the parent standing committee, the results of the West Coast investigation. In this discussion, it was recognized that some of the information turned up—apart from information as to possible concealment from the Labor Department and the Internal Revenue Service of union funds by teamster officials—dealt with facets of labor corruption which might exceed the jurisdiction of the committee (B. 225, 276–277; L. 177). In addition, the chairman was informed that Mr. Bassett, the attorney for Brewster and LaPoma, had, in his conversations with Mr. Kennedy, questioned the Subcommittee's jurisdiction to make any inquiries whatever of his clients (B. 118–120; L. 177).

In light of these considerations, Senator McClellan introduced on January 7, 1957, a resolution (S. Res. 14) seeking ratification from the Senate for the carrying through by the Permanent Subcommittee on Investigations of a thorough investigation into "labor irregularities on Government operations * * *" (B. 71–74, 72, 83–86; L. 17–24). On the same day, Senator Ives, Chairman of the Committee on Labor and Public Welfare, also introduced a resolution (S. Res. 13) seeking authorization for his Committee "to make a comprehensive study and investigation of the penetration of criminal elements into * * * organized labor * * *" (B. 70, 81–83; L. 14–16, 25).

At a meeting, on January 10, 1957, of the Investigations Subcommittee, these two resolutions were discussed. Senator McClellan advised the members of the Committee that in some areas it had jurisdiction but in others "it would be on the borderline", and that he had asked for additional authority so that no question could be raised. He further stated that Senator Ives had advised him that "he thought probably both Committees had jurisdiction" but that since he had offered a similar resolution last year,[11] he thought he should offer it again. Counsel Kennedy then explained the development of the West Coast investigation to the Committee members (see *supra,* pp. 9–10) and noted the jurisdiction of the Subcommittee, first, in relation to the tax exempt status of unions and whether that status was proper in view of misuse of funds by union officials, and, second, as to improvements in the filing requirements which were being abused by union officials (B. 54–56; L. 401–419). Thereafter, the full Committee met on January 14, 1957, and, as noted, *supra,* reaffirmed the Subcommittee's power to hold such hearings as its parent Committee was authorized to conduct (B. 57–59; L. 114k–114l). On January 16, 1957, the Subcommittee commenced its hearings on the subject: "Violation or Non-Enforcement of Government Laws and Regulations in the Labor Union Field" (B. 309; L. 327).[12]

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[11] S. Res. 304, 84th Cong., 2d Sess., introduced July 5, 1956 (B. 69).

[12] A week or so after the appearances of Messrs. Brewster and LaPoma before the Subcommittee, Senator McClellan, along with Senator Ives, sponsored S. Res. 74, 85th Cong., 1st Sess., creating the Select Committee on Improper Activities in

C. The hearings

1. The subject under inquiry

The Subcommittee hearings commenced in the morning of January 16, 1957. At the outset, Chairman McClellan read a statement reviewing the information obtained through the Subcommittee's investigation and delineating the purpose of the inquiry (B. 310–313). This included the following:

> In the passage of the Taft-Hartley law in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types of racketeering, including the misuse or misappropriation of union funds by dishonest union officials. The law provides that there shall be a registration of labor organizations and a full and accurate report by such organizations of their revenues and expenditures and of all compensation and allowances over and above $5,000 paid to and received by labor union officials and union employees from dues collected from members or from other union funds.
>
> Today, the subcommittee will hear officials from the Department of Labor, the National Labor Relations Board, and the Treasury Department. We shall make inquiry of them as to the adequacy of existing statutes and their

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the Labor Management Field (B. 75–76). At that time, Senator McClellan observed, as to the instant hearings, that "we undertook to confine [them] to the area in which I felt confident, beyond any doubt in my own mind, that the subcommittee had jurisdiction" (103 Cong. Rec. 1262). In the same debate, Senator Ives commented as to these hearings: "It is one over which his committee [the Subcommittee on Investigations] has absolute jurisdiction; I have never questioned its jurisdiction" (103 Cong. Rec. 1263).

present rules and regulations to enable them to administer the law efficiently. Also, we shall inquire whether there should be any modifications or changes in existing law to assist them in determining the adequacy, accuracy, and truthfulness of financial reports and other information required to be supplied by labor unions and labor union officials.

We want to determine whether agencies of Government are able to and have the authority to ascertain whether such information contained in such labor union registrations, financial reports, and the reports of the labor union officials are accurate, true or false.

The subcommittee is aware of recent court decisions which may sharply limit and restrict the right of Government agencies such as the Treasury Department, the Bureau of Internal Revenue, the Department of Labor, and the National Labor Relations Board to investigate and determine the accuracy, truthfulness or falseness of various reports the unions and their officials are obligated to file. We intend to ascertain whether, in view of these court decisions, the responsibilities of the Government in this area under existing law are being administered efficiently and economically. We also want to know whether legslation in this area is necessary to improve the efficient and economic administration of existing law or if modification or change is required to promote greater efficiency and economy.

Conferences with representatives of the Bureau of Internal Revenue indicate the need for strengthening legislation to enable the Bureau to investigate labor organizations

which, under the law, are tax exempt. The Bureau of Internal Revenue should have the authority to determine whether any of the labor unions' funds and particularly, dues collected from union members, are used by union officials for personal gain and profit. We also want to know whether and why such tax exempt labor union organizations can refuse to allow either the legislative or the executive branch of the Government to examine their books and records. The Government should be permitted to establish whether such organizations come within the purview of the law granting it a tax exempt status.

This subcommittee proposes to determine whether, after such refusal, the continuance of a tax exempt status is warranted, or if such tax exempt status should be forfeited by such refusal.

In the course of our previous investigations and this present preliminary inquiry, we have acquired information that clearly indicates that there is labor racketeering in the area of Government procurement resulting in increased cost to the taxpayers for commodities produced; that false reports have been filed by certain labor organizations with respect to their expenditures; that compensation and allowances paid by certain unions to their officials have not been accurately and truthfully reported; that there has been manipulation of accounts involving dues collected from their members, as well as welfare funds; also other irregularities and improprieties have come to the attention of the subcommittee.

It is, therefore, our purpose to develop facts and information that will enable the Federal

> Government to improve its efficiency and strengthen its economy. In this effort we have every reason to expect the wholehearted cooperation and support of the leaders and members of labor organizations whose actions and practices conform to the law, who observe the proprieties of proper labor-management relations, and who are interested and desire to cooperate in improving the efficiency and economy of Government operations.
>
> * * * * *

Testimony was then adduced from Mr. Boyd Leedom, Chairman of the National Labor Relations Board (B. 313–340; L. 331–357), who pointed out that in order for a union to avail itself of the services of the Board in the adjudication of charges of unfair labor practices it must have filed, pursuant to Section 9 (f), (g) and (h) of the Labor Management Relations (Taft-Hartley) Act of 1947, memoranda with the Secretary of Labor concerning its financial activities, compensation of officers, organizational information, and its officers must file non-communist affidavits. He observed, however, that in actual practice this filing requirement was a matter of form; because of the way the Act was written and as a result of an opinion by the Supreme Court [13] there was no Board authority to examine the reports or in any way to determine

---

[13] In *Leedom* v. *International Union of Mine, Mill & Smelter Workers*, 352 U. S. 145, this Court held that the National Labor Relations Board was not empowered to investigate the truth or falsity of a non-communist affidavit nor may it decree a union's decompliance with Section 9 (h) because such affidavit was untrue. The exclusive remedy under the Act is a criminal sanction against the guilty officer.

whether they were true or false. Mr. Leedom believed that no executive official had any authority to check the accuracy of the reports. When the reports are filed with the Department of Labor, it mails a "post-card" certification to the union which forwards a portion of it to the National Labor Relations Board, which, upon receipt of such certification, makes available the services of the Board to the certified union. Neither agency goes into the veracity of the reports. Mr. Leedom thought that this inability to examine the reports could result in frauds being perpetrated on the government without adequate remedy.

He further testified that the Western Conference of Teamsters had never filed reports and it was not clear from the Act whether such "intermediate organization" fell within the scope of the Act's registration requirements, despite the fact that the Conference actively controls all the teamster locals in 11 western states. In sum, he agreed that the law contained "loopholes and areas that need clarification" (B. 337; L. 354) and that "if it is the desire of Congress to achieve the objective of denying the services of the Labor Board to unions who do not make honest and truthful revelations as to their financial activities, then the law isn't adequate to reach that" (B. 338; L. 355).

Secretary of Labor Mitchell next testified and affirmed Chairman Leedom's interpretation of the Taft-Hartley Act to the effect that there was no authority to determine whether a financial statement was false and inaccurate. In fact, he testified, even if he should personally have knowledge that particular reports

were false, he had no authority to deny certification on that basis. He further stated that, although criminal penalties were prescribed, to the best of his knowledge no union or union official had ever been convicted for the filing of false financial reports. Additionally, he discussed the requirement that these reports be disseminated to union members and the harmful effect upon such members if they were untrue. He agreed that false reports worked an imposition on the Government and that it was inherent in the Congressional purpose that they be accurate. He noted that the Labor Department was reviewing the Act, including Section 9 (f), for the purpose of determining what amendments were necessary (B. 340–356; L. 357–372).[14]

Mr. Justin F. Winkle, Assistant Commissioner of Internal Revenue, and Mr. John P. Barnes, Chief Counsel, Internal Revenue Service, then were called and testified concerning the tax exemption status of labor unions. The crux of their testimony was that, while labor unions are tax exempt, the Internal Revenue Service has a right to audit their books, but due to the extreme work load and manpower shortage such auditing is very slight. They stated that a condition to tax exemption was that no portion of the union's net income inure to any member; that they would wish to examine a labor union's records if an annual

[14] S. Res. 94, 85th Cong., 1st Sess., introduced on May 17, 1957, was a joint resolution to the effect that Secretary Mitchell's testimony before the Subcommittee showed that he was requesting Congress to provide the authority to make available to the public the forms required to be filed by labor unions under the Taft-Hartley Act (B. T. 704–705).

financial report was fraudulent; that the Ninth Circuit, however, had limited their authority by holding that the District Court must first determine the relevancy of these reports to the tax investigation (see *supra*, p. 11, fn. 10); that, in the light of this decision the more stringent remedy of revocation of tax exemption would be considered; that such a procedure would in any event be seriously considered if it were found that the net earnings of unions were pocketed by officials; and that the Service would welcome any specific information on that subject (B. 356–366; L. 372–382).

2. Brewster's contempt

Immediately after the testimony of the government officials discussed above, respondent Brewster was called upon to testify. He stated that he had received a copy of the Chairman's statement made at the outset of the hearing (*supra*, pp. 14–17), that he had read it, was familiar with it, and had no questions concerning its content (B. 134).[15] He then read a prepared statement to the effect that he did not intend to produce the records requested by the subpoenas, on the grounds (1) that "the subcommittee is proceeding in excess of its lawful authority" and (2) that the subpoenas are so broad as to constitute an unreasonable search and seizure in violation of the Fourth Amendment (B. 138–139). After some questioning of Brewster and his counsel (B. 139–145), the witness was temporarily dismissed to afford him

[15] Before the hearing had commenced, Mr. Kennedy had given several copies of this statement to Mr. Bassett, the attorney for Messrs. Brewster and LaPoma (B. 495, 499).

the opportunity to reconsider his position and to return the following morning. His next appearance was postponed until January 19, 1957.

At the January 19 hearing, Mr. Brewster persisted in the position he had taken earlier and refused to answer all questions put to him. His sole basis for refusal was that the Subcommittee was acting outside its jurisdiction; additionally, as to questions relating to his failure to produce the subpoenaed books and records, he relied on the claim that the subpoenas were too broad (B. 164–187).

His refusals to answer, which were charged in the indictment, are grouped in categories in the opinion of District Judge Sirica (B. 33), substantially as follows (B. 1–7; 153–187):

(a) Eleven counts relate to reports filed with the Secretary of Labor by Joint Council 28 and Local 174 of the Teamsters. Mr. Brewster refused to examine or testify to the verity of the reports; to state whether they concurred with reports filed with the Internal Revenue Service; or otherwise to identify his own and other signatures appearing on said documents (Counts 2–4; 9–11, 12, 13, 16, 17, 19).

(b) Seven counts involved inquiries into Mr. Brewster's and Mr. Beck's reported personal use of union funds, whether he knew the reporting requirements of union officials' salaries, and whether he considered false reporting a fraud against union members (counts 18, 20, 21, 22–25).

(c) Seven counts involved questions as to whether he believed the laboring man should know how union

funds are spent, and his intent and purpose in challenging the authority of the Subcommittee (counts 5–8, 26, 27, 30).

(d) Three counts involved questions concerning instructions circulated among officials of the International Brotherhood of Teamsters that no disciplinary action was to be taken against any official who invoked his constitutional privilege before the Subcommittee (counts 14, 15, 31).

(e) Two counts charged Brewster with failure to produce the subpoenaed documents of Joint Council No. 28, and of the Western Conference of Teamsters (counts 28, 29).

(f) Count 1 charged his refusal to state his occupation.

3. LaPoma's contempt

Respondent LaPoma was called to testify on January 16, 1957, immediately after Mr. Brewster's appearance. He also stated that he had read the Chairman's statement (*supra*, pp. 14–17) and understood the purpose of the investigation and the Committee's interest (L. 386). Like Brewster, he then read a prepared statement explaining that he had failed to produce the subpoenaed records of Local 174 because the inquiry was outside the scope of the Subcommittee's authority and because the subpoena was too broad (L. 387–388). He was afforded an opportunity to reconsider his decision and next appeared before the Subcommittee on January 19, 1957 (L. 395).

At this hearing, he again refused to answer all questions on the grounds originally stated (L. 317–325). These refusals, which became the subject matter of the five-count indictment against him, are as follows (L. 1–3, 317–325):

(a) Refusal to produce the subpoenaed records of Local 174 (count 1).

(b) Refusal to answer whether he intended to produce the subpoenaed papers, despite his knowledge of the purpose of the investigation and of the opening statement made by the Chairman (counts 2 and 3).

(c) Refusal to identify documents filed with the Department of Labor by Local 174 and to identify his signature thereon (counts 4 and 5).

On February 7, 1957, the Committee on Government Operations unanimously voted to request the Senate to hold Brewster and LaPoma in contempt (L. 114e–114j). On February 19, 1957, by voice vote without objection, the Senate voted the contempt citations (S. Res. 92 against Brewster, and S. Res. 89 against LaPoma; 85th Cong., 1st Sess.; 103 Cong. Rec. 2227–2229).[16]

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[16] Contempt citations for similar refusals to testify before the Subcommittee were voted against Einar O. Mohn, vice-president of the International Brotherhood of Teamsters (S. Res. 91; 103 Cong. Rec. 2229) and Harry Reiss, administrator of the welfare fund of Teamster Local No. 227 (S. Res. 90; 103 Cong. Rec. 2229). Following the creation of the Select Committee on Improper Activities in the Labor Management Field, Mr. Brewster testified before that Committee and produced the requested books and records, on March 15, 19, 20–22 (B. 448–450).

REASONS FOR GRANTING THE WRIT

I

The ruling of the Court of Appeals severely restricts the inquiry power of the Investigating Subcommittee of the Senate Committee on Government Operations—the chief investigating arm of the Senate. Extending far beyond the facts of this particular case, the decision unduly narrows the Subcommittee's proper scope and should be reviewed, among other reasons, because of its direct effect on that significant agency of the Congress.

1. The Investigating Subcommittee, in studying the efficiency of government operations, had in its possession financial reports filed by unions with the Department of Labor pursuant to law. It had testimony of officials of the Department of Labor and of the National Labor Relations Board that, under the existing law as they understood it, those departments had no authority to question the verity of the reports or to take action if the reports were false. The Subcommittee also had reason to believe that the reports were not accurate and truthful. Yet, under the ruling of the Court of Appeals, it was no part of a Senatorial inquiry into the efficiency of government operations to discover from the unions' representatives whether there was in fact considerable falsity in the reports filed as a basis for determining whether the problem of falsity required legislative solution, or whether further action could be taken under existing law by the executive agencies. Similarly, the Subcommittee knew that unions were being given a tax exempt status, and

that the Internal Revenue Service felt that it did not have sufficient manpower to determine whether such exempt status was proper. Yet, under the decision below, a study of the efficiency of government operations would not encompass an inquiry directed to a union as to whether that union should in fact have been held exempt under the statute.

The opinion of the majority below thus holds that the Subcommittee's power to investigate the administration of federal statutes does not extend to inquiries directed to the very persons regulated by the legislation, regardless of the closeness of the inquiry to the subject matter regulated and to the actual operation and working of the statutory regulation. For example, under the opinion of the Court of Appeals, it would be no part of a study of the efficiency and operation of the tax laws to determine from corporation officers whether a particular corporate tax exemption would result in unduly large surpluses for a particular group of corporations. Nor would it appear to be proper (under the decision) for the Subcommittee, studying military procurement, to query Government contractors as to whether they padded their cost estimates or paid commercial bribes. Apparently the only witnesses the Subcommittee could properly call to aid it in its investigations would be government officials or third persons unconnected with the regulated activity.

2. This limiting construction of the Subcommittee's charter is plainly contrary to the true scope of its authority as evinced by the clear language of the grant (*supra*, p. 5) and by its history. The "economy" and

"efficiency" of various governmental activities—regulatory, procurement, military—often cannot be appraised and evaluated without discovering, from the individuals who deal with the Government, the nature and character of those dealings—the truth or falsity of reports and representations, the measure of disclosure, the scope of compliance with regulations and requirements, illicit transactions, the actual results of the regulation and whether or not it is successful, etc. All laws operate in and on particular factual situations, and the efficiency of a law and its administration cannot be divorced from its actual operation and from the underlying facts which must be gathered from their basic sources.

Certainly, the power and the actual practice of administrators with respect to reports filed with government departments and tax exemptions conferred by a government department cannot be properly appraised without considering the factual situation resulting from the operation and administration of those particular laws. If Congress is to consider modifying the Taft-Hartley Act's reporting requirements or the Internal Revenue Code's exemption sections, it must know how those provisions are now operating in fact, *i. e.*, whether they are operating efficiently as contemplated by Congress. And in order to make that judgment (with which the Investigating Subcommittee is initially charged on behalf of the Senate) the Subcommittee is empowered to gather the facts from the persons most likely to have them in their possession—such individuals as Brewster and LaPoma, the unions' representatives.

As we view it and as the Subcommittee views it, whether an investigation be of the filing of false union reports, or of corporate tax structure, or of military procurement, the Investigating Subcommittee, under the proper construction of its grant of authority, is plainly authorized to question those directly concerned in the particular governmental field, on matters relating to efficient government operation in that field, whether those individuals be government personnel, union officials, or corporate representatives. If the Subcommittee had jurisdiction to call private individuals to testify in its "5 percenter" investigation (*Maragon* v. *United States*, 187 F. 2d 79 (C. A. D. C.), certiorari denied, 341 U. S. 932), and in its investigation of the United States Information Service (*United States* v. *O'Connor*, 135 F. Supp. 590 (D. D. C.), reversed on other grounds, 240 F. 2d 404 (C. A. D. C.)),[17] it surely had jurisdiction to question union officials in the course of its investigation into the efficiency of the filing of Taft-Hartley Act reports with the Labor Department, and the claims of unions for income tax exemptions filed with the Internal Revenue Service.[18]

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[17] *United States* v. *Kamin*, 136 F. Supp. 791 (D. Mass.), is plainly distinguishable since it involved an investigation of a *private plant* having a Government defense contract, and not, as here, the direct impact of particular regulatory provisions and the filing of reports with government agencies.

[18] For other instances of comparable investigations by the Subcommittee, see the Statement, *supra*, pp. 7–8; 7, fn. 5. The Subcommittee is the main investigating arm of the Senate. Before its activation in 1948, Senator Wiley, then Chairman of the Senate Committee on the Judiciary, disclosed that he understood that the main committee "will have created in its juris-

3. The majority below misinterpreted the Subcommittee's position as attempting to transform *all* the activities of persons or entities regulated by any government agency into "Government activities". The court said (App., *infra*, p. 39):

> We have grave doubts that, merely because unions are required to file reports, their activities or the misuse of their funds or the concealment of such use become "Government activities". We would have the same doubts about whether the requirement that corporations file tax returns make all corporate affairs "Government activities".[19]

No such position is involved in this case. The Subcommittee recognized that not all union activities,

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diction an investigational subcommittee to handle matters of investigation for all of the standing committees. * * * I should like to observe that this appears to be a businesslike step since most of the standing committees, including the Judiciary Committee, are unequipped to handle investigations". And Senator Ferguson, then Chairman of the Subcommittee on Investigations, also said, in 1948, that the committee "has undertaken to organize a staff so that the committee may take on the burden of investigations for the Senate". Sen. Doc. No. 51, 82d Cong., 1st Sess., July 10, 1951, *The Organization of Congress—Some Problems of Committee Jurisdiction*, p. 34.

[19] The court goes on to say (App., *infra*, p. 39):

> According to the logic of appellee's view, the Committee would have authority, under its duty to study the "economy and efficiency" of "the operation of Government activities," to investigate all persons and companies subject to laws dealing with internal revenue, transportation, communications, banking, agriculture, shipping, subversive activities, immigration, health, international relations, etc., etc. This, for all practical purposes, would give the Committee on Government Operations jurisdiction to investigate *virtually every activity engaged in by every person in the land.* * * *". (Emphasis added.)

however properly the subject of legislative investigation, were within the scope of the government operations committed to this Subcommittee's jurisdiction (see the Statement, *supra*, pp. 12–13). The Subcommittee was careful to limit its inquiry to those union activities directly related to the functioning of the Taft-Hartley Act's reporting provisions and to the claimed tax exemptions. There was no attempt to investigate "every activity" engaged in by respondents or their unions, or to equate all union affairs with "Government activities". The Subcommittee kept within the bounds of its charter. See the Statement, *supra*, pp. 12 *ff*.

The opinion below also suggests that the Senate itself had doubt as to the scope of the Subcommittee's authority because of its creation of the Select Committee on Improper Activities in the Labor or Management Field (App., *infra*, p. 40, fn. 7). This is answered by the legislative history of the creation of the Select Committee which clearly indicates that it was to cover union-management conditions not relating to the efficient operation of government activities and hence not within the compass of the Subcommittee's authority (see the Statement, *supra*, pp. 13–14, fn. 12; 103 Cong. Rec. 1261–1265). The Select Committee was created because it was realized that there were areas of union corruption that would not fall within a study of the operations of the Government. Its creation does not mean that the Senate felt that the matters at issue here—particularly the questions relating directly to the veracity of the reports filed with the Labor Department and the bases for tax exemption—were outside

the scope of the Subcommittee's power. To the contrary, by citing respondents for contempt, the full Senate indicated that it thought the inquiry properly within the jurisdiction of the Subcommittee.[20]

4. This statement of the matter is sufficient, we think, to show the error of the court below and the importance of the problem to the continued functioning of this significant Subcommittee. The rule laid down in the opinion will hamper almost every inquiry undertaken by the Subcommittee and will extend far beyond the instant investigation. The decision, unless reviewed, will represent the law of the District of Columbia Circuit where, necessarily, most of the Subcommittee's investigations take place. Hereafter the Subcommittee will function under the shadow of that ruling. It is therefore important that the questions posed by that decision be resolved at this time, in this proceeding.

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[20] Nor may it validly be urged that respondent Brewster purged himself of his contempt by virtue of the fact that he subsequently testified before the Select Committee. His initial failure to comply with the Subcommittee's order constituted criminal contempt; and his subsequent testimony before the Select Committee was never accepted by the Committee on Government Operations, its Subcommittee, or by the Senate, as a purge of his prior contumacious conduct. At most, his subsequent compliance goes to the severity of punishment to be imposed. *Chapman* v. *United States*, 8 App. D. C. 302, 310–312; cf. *United States* v. *Norris*, 300 U. S. 564, holding that a witness committing perjury before a Congressional committee cannot purge himself of that offense solely by recanting the false testimony at a later stage of the inquiry.

Respondent LaPoma has not testified before the Select Committee.

II

The decision below likewise raises grave general questions as to the extent of judicial supervision of the investigative prerogative of Congress, and should also be reviewed by this Court for that reason.

1. Beyond dispute, a key facet of the proper exercise of the legislative function is the Congressional power to investigate and inform itself. *Kilbourn* v. *Thompson,* 103 U. S. 168; *McGrain* v. *Daugherty,* 273 U. S. 135; *Sinclair* v. *United States,* 279 U. S. 263; *United States* v. *Rumely,* 345 U. S. 41; *Watkins* v. *United States,* 354 U. S. 178. In effect, the decision of the court below goes far to devitalize that power. And it would devitalize it not because it conflicted with the assertion of any personal Constitutional privilege; nor because the Subcommittee was acting without a bona fide legislative purpose, cf. *Kilbourn* v. *Thompson, supra*; nor because there was uncertainty as to the subject matter of the inquiry, *Watkins* v. *United States, supra;*[21] nor to avoid Constitutional questions which would otherwise arise, *United States* v. *Rumely, supra.* Rather, the ruling would hold the investigation invalid solely because the Subcommittee's charter did not spell out explicitly enough for the court the authority to make inquiries of other than government personnel; regardless of the fact that these inquiries dealt with matters which were subject

[21] The opinion below states that "It is conceded that Congress has the power to conduct such an inquiry" (App., *infra,* p. 38). And there has been no claim—nor could there be (see the Statement, *supra,* pp. 14–17, 20–21, 22–23)—that respondents did not know the precise subject matter of the inquiry.

to government regulation and were closely related to efficient government operation.

In order to comply with the broad implications of this decision and yet seek to prevent emasculation of its investigative authority, Congress would seemingly have two avenues of approach open to it. On the one hand, it could endow a committee with such broad authority as to defeat any claim that a particular investigation was not within that committee's jurisdiction. But this could lead to great overlap between committees and might be susceptible to attack on the ground that the empowering resolution was so vague that it did not spell out a legislative purpose, nor inform the witness of the topic under consideration (cf. *Watkins* v. *United States*, 354 U. S. 178, 201–211). On the other hand, Congress could define minutely the exact functions that the committee is to perform and the exact persons it could call before it. This would require that Congress forecast accurately the specific legislative needs and the precise area of investigation required to meet such needs, before they are known and before any investigation is begun; or, alternatively, that Congress constantly carve out a committee's jurisdiction on a piece-meal basis as immediate conditions dictate. Under neither method could Congress grant a committee investigative power coextensive with the legislative purpose it is meant to serve in the conditions of modern legislation.

In our opinion, given a valid legislative purpose a committee's investigative jurisdiction should be viewed with liberality and not confined even more narrowly than if it were a criminal statute. If the inquiry is

fairly within the terms and spirit of the authorizing resolution, it should not be struck down for lack of detailed specificity in the charter. Unnecessary and unreasonable burdens should not be placed on Congress in the creation either of standing committees or of special committees.

2. In its bearing on the degree of specificity required to authorize legislative inquiry into a particular subject matter, this case is related to two cases already before this Court from the Court of Appeals for the District of Columbia Circuit, involving contempt convictions of witnesses appearing before the House Un-American Activities Committee (*Barenblatt* v. *United States*, 252 F. 2d 129, No. 35, this Term, certiorari granted, 356 U. S. 929) and the Senate Internal Security Subcommittee (*Flaxer* v. *United States*, No. 60, this Term, certiorari granted, June 9, 1958). While those two cases involve primarily the question whether the witnesses were fairly informed of the subject matter under inquiry and the pertinency of the questions asked, they also raise issues as to the scope and extent of the inquiry permitted to these Committees under their authorizing resolutions. In view of this Court's evidenced wish to explore that subject, and because we believe that the instant decision of the Court of Appeals improperly restricts the jurisdiction of a major standing committee of the Senate and may well have broad repercussions in hobbling the investigations of Congressional committees generally, we submit that the decision below should likewise be reviewed by this Court.

CONCLUSION

For these reasons, it is respectfully submitted that this petition for a writ of certiorari should be granted.

J. LEE RANKIN,
Solicitor General.
MALCOLM ANDERSON,
Assistant Attorney General.
BEATRICE ROSENBERG,
JEROME M. FEIT,
Attorneys.

JULY 1958.

APPENDIX

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14145

FRANK BREWSTER, APPELLANT

v.

UNITED STATES OF AMERICA, APPELLEE

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Decided April 15, 1958

Mr. John K. Pickens, with whom Messrs. Jerry N. Griffin, Donald S. Dawson and M. Joseph Stoutenburgh were on the brief, for appellant.

Mr. William Hitz, Assistant United States Attorney, with whom Messrs. Oliver Gasch, United States Attorney, and Lewis Carroll, Assistant United States Attorney, were on the brief, for appellee.

Before REED, Associate Justice of the Supreme Court, retired,* and PRETTYMAN and BAZELON, Circuit Judges.

BAZELON, *Circuit Judge:* Appellant was convicted under 2 U. S. C. § 192 of 31 charges of contempt of Congress committed before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations.

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*Sitting by designation pursuant to the provisions of 28 U. S. C. § 294 (a).

At the time of the alleged offenses, appellant held three union offices. He was president of Joint Council No. 28, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers; chairman of the Western Conference of Teamsters; and president of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 174. The charges covered by his refusals (1) to produce the subpenaed books and records of Joint Council No. 28 and the Western Conference of Teamsters; (2) to examine and identify financial reports filed with the Labor Department by Joint Council No. 28 and Local 174 pursuant to the requirements of law; (3) to answer questions relating to the accuracy of these reports and of reports filed with the Bureau of Internal Revenue pursuant to the requirements of law; and (4) to answer questions as to (a) what other reasons appellant had, beside lack of Subcommittee jurisdiction, for his refusal to give information and (b) certain union instructions on the invocation of constitutional privileges.

Appellant's chief contention on this appeal, as it was before the Committee and before the District Court, is that the Committee lacked jurisdiction to conduct the inquiry into his and the union's activities and therefore could delegate no such authority to its Subcommittee.

The Committee on Government Operations, at first called the Committee on Expenditures in the Executive Departments, was one of the sixteen permanent Senate Committees created by the Legislative Reorganization Act of 1946[1] to replace the "crazy-quilt pattern" of the Senate's then existing 33 committees.[2] The Act sought to "define the jurisdiction of each reorganized committee so as to avoid jurisdictional dis-

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[1] 60 Stat. 812 *et seq.*

[2] S. Rep. No. 1400, 79th Cong., 2d Sess. 2 (1946).

putes between them" as had occurred with the supplanted committees.[3] Section 102 (1) (g) provided for the Committee:

> (g) (1) Committee on Expenditures in the Executive Departments, to consist of thirteen Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> (A) Budget and accounting measures, other than appropriations.
>
> (B) Reorganizations in the executive branch of the Government.
>
> (2) Such committee shall have the duty of—
>
> (A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;
>
> (B) *studying the operation of Government activities at all levels with a view to determining its economy and efficiency;*
>
> (C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government;
>
> (D) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.[4]

To sustain the authority asserted here on behalf of the Committee, appellee relies primarily on subdivision (g) (2) (B), *i. e.*, upon the Committee's duty of "studying the operation of Government activities at all levels with a view to determining its economy and efficiency." This duty, says appellee, required the Committee "to determine whether Government activ-

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[3] *Id.* at 3.

[4] 60 STAT. 816, emphasis supplied.

ities in the labor union field were operating with economy and efficieney."

According to appellee, "Government activities in the labor union field" stem from two things: first, the requirement of the Labor Management Relations Act of 1947 that union organizations file financial and other reports with the Labor Department as a condition to invoking the processes of the National Labor Relations Board;[5] second, the grant of income tax exemptions to labor organizations.[6] Appellee concludes:

> It is clear that the misuse of union funds and the concealment thereof by false reports are evils whose existence will determine the economy and the efficiency of the Government activities in these labor union fields.

To investigate these evils, the Subcommittee first heard testimony from officials of the Labor Department, the National Labor Relations Board and the Treasury Department concerning the operation of the laws requiring union organization reports. Then it sought information from appellant to determine whether there was misuse of union funds and concealment of such misuse in the reports required by law. At a Subcommittee hearing on January 19, 1957, appellant refused to give this information, on the sole ground that the Subcommittee lacked jurisdiction to make such an inquiry.

It is conceded that Congress has the power to conduct such an inquiry. The question is whether, by the Legislative Reorganization Act of 1946, it gave

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[5] If union officials misuse union funds and file false reports, it is argued, the purposes of the Labor Management Relations Act are thwarted.

[6] As the Government puts it: "If union officials misuse union funds, the union is not deserving of the bonanza of tax exemption, and the misused funds will certainly not be declared as individual taxable income by miscreant union officials."

this power to the Committee of Government Operations with sufficient clarity and certainty to invoke "the aid of the federal judicial system in protecting itself against contumacious conduct." *Watkins* v. *United States*, 354 U. S. 178, 207 (1957). We think not.

It is not at all clear that the power to investigate the misuse of union funds inheres in the Committee's duty, under § 102 (1) (g) of the Act, of "studying the operation of Government activities at all levels with a view to determining its economy and efficiency." We have grave doubts that, merely because unions are required to file reports, their activities or the misuse of their funds or the concealment of such use become "Government activities." We would have the same doubts about whether the requirement that corporations file tax returns makes all corporate affairs "Government activities." Cf. *United States* v. *Kamin*, 136 F. Supp. 791, 802 (D. Mass. 1956).

According to the logic of appellee's view, the Committee would have authority, under its duty to study the "economy and efficiency" of "the operation of Government activities," to investigate all persons and companies subject to laws dealing with internal revenue, transportation, communications, banking, agriculture, shipping, subversive activities, immigration, health, international relations, etc., etc. This, for all practical purposes, would give the Committee on Government Operations jurisdiction to investigate virtually every activity engaged in by every person in the land. It would at least give the Committee a legislative oversight jurisdiction of the executive departments, not only overlapping in blanket fashion the other fifteen permanent Senate committees, but perhaps extending beyond them. While some unavoidable overlap might be viewed as within the contemplation of the Legislative Reorganization Act of 1946, we

can hardly say the same for the vast overlap which inheres in the Committee's assertion of power here.[7]

We therefore reverse the judgment of conviction and remand the case to the District Court with instructions to dismiss the indictment.

So ordered.

ASSOCIATE JUSTICE REED, *retired, dissenting:* The power of Congress, through its committees to investigate the operation of Government activities, is unquestioned when the facts sought are to inform Congress with a view to legislation. Appellant's objection is that Congress had not authorized this committee to investigate the efficiency of the governmental processes.

This is not a situation such as *Watkins* v. *United States,* 354 U. S. 178, where the purpose of the investigation was not clear, nor of *United States* v. *Rumely,* 345 U. S. 41, where the meaning of the phrase "lobbying activities" called for definition. Here the Committee had the duty of studying the efficiency of the operation of Government activities at all levels. In directing its investigation toward certain required reports of labor unions to the Government, it was

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[7] The Senate strongly indicated its belief that the Committee on Government Operations was without power to conduct the inquiry. When the question of this Committee's jurisdiction was raised before the Senate, it acted, on January 30, 1957, to create the Select Committee on Improper Activities in the Labor or Management Field, authorized to investigate criminal and other improper activities in the labor or management field. S. Res. 74, 85th Cong., 1st Sess. Senator McClellan, Chairman of the Committee on Government Operations and Chairman of its Subcommittee on Investigations, was made Chairman of the Select Committee. On February 15, 1957, appellant turned over the subpenaed records to the staff of the Select Committee and on March 15, 19, 20 and 21, 1957, he testified and answered questions before the Select Committee.

within the scope of its authority. Legislation to protect union funds more fully might be required.

Congress alone has the authority to decide the scope of a committee's jurisdiction. It is only when the scope of the authority granted is uncertain or beyond constitutional power that the judiciary may intervene to protect a contumacious witness. It is conceded by the opinion that only a narrower resolution was required to call for replies to the questions asked.

Such judicial supervision of legislative procedure as this decision imposes is, in my opinion, not only an invasion of legislative prerogatives but hampers congressional investigations. Congress must empower its committees by general language to make needed investigations. The witness may be protected by questions narrowed so as fairly to inform him of the information desired. *Watkins* v. *United States*, 354 U. S. 178, 215.

I would affirm this conviction.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

April Term, 1958. Criminal 289–57

No. 14,145

FRANK BREWSTER, APPELLANT,

v.

UNITED STATES OF AMERICA, APPELLEE

Filed April 15, 1958.

Appeal from the United States District Court for the District of Columbia.

Before: Reed, Associate Justice of the Supreme Court, retired, and Prettyman and Bazelon, Circuit Judges.

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof, It is ordered and adjudged by this Court that the judgment of the said District Court appealed from in this cause be, and the same is hereby, reversed, and that this cause be, and it is hereby, remanded to the said District Court with instructions to dismiss the indictment.

Dated: April 15, 1958.

Per Circuit Judge BAZELON.

Separate dissenting opinion by Mr. Justice Reed.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

April Term, 1958

No. 14,145

FRANK BREWSTER, APPELLANT,

v.

UNITED STATES OF AMERICA, APPELLEE.

Filed: May 27, 1958.

Before: Edgerton, Chief Judge, Prettyman, Wilbur K. Miller, Bazelon, Fahy, Washington, Danaher, Bastian and Burger, Circuit Judges, in Chambers.

ORDER

Upon consideration of appellee's petition for rehearing en banc and of appellant's answer, it is

ORDERED by the court that the aforesaid petition be, and it is hereby, denied.

Per Curiam.

Dated: May 27, 1958.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14117

NUGENT LAPOMA, APPELLANT

v.

UNITED STATES OF AMERICA, APPELLEE

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Decided April 15, 1958

Mr. John K. Pickens, with whom Messrs. Jerry N. Griffin, Donald S. Dawson and M. Joseph Stoutenburgh were on the brief, for appellant.

Mr. William Hitz, Assistant United States Attorney, with whom Messrs. Oliver Gasch, United States Attorney, and Lewis Carroll, Assistant United States Attorney, were on the brief, for appellee.

Before REED, Associate Justice of the Supreme Court, retired,* and PRETTYMAN and BAZELON, Circuit Judges.

Per Curiam: This appeal, like *Brewster* v. *United States*, No. 14145, decided today, is from a conviction for contempt of Congress, 2 U. S. C. § 192, and in-

---

* Sitting by designation pursuant to the provisions of 28 U. S. C. § 294 (a).

volves the question of the jurisdiction of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations. On the authority of Brewster the judgment of conviction herein is reversed and the case is remanded to the District Court with directions to dismiss the indictment.

So Ordered.

Associate Justice Reed, retired, dissents for the reasons stated in No. 14,145—*Brewster v. United States of America.*

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

April Term, 1958. Criminal 290-57

No. 14,117

NUGENT LAPOMA, APPELLANT

v.

UNITED STATES OF AMERICA, APPELLEE

Filed April 15, 1958.

Appeal from the United States District Court for the District of Columbia.

Before: Reed, Associate Justice of the Supreme Court, retired, and Prettyman and Bazelon, Circuit Judges.

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof, It is ordered and adjudged by this Court that, on the authority of *Brew-*

ster v. *United States*, No. 14,145, decided today, the judgment of the said District Court appealed from in this cause be, and it is hereby, reversed, and that this cause be, and it is hereby, remanded to the said District Court with directions to dismiss the indictment.

Dated April 15, 1958.

Per Curiam.

Mr. Justice Reed dissents for the reasons stated in his dissent in No. 14,145, *Brewster* v. *United States of America*.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

April Term, 1958

No. 14,117

NUGENT LAPOMA, APPELLANT

v.

UNITED STATES OF AMERICA, APPELLEE

Filed May 27, 1958.

Before: Edgerton, Chief Judge, Prettyman, Wilbur K. Miller, Bazelon, Fahy, Washington, Danaher, Bastian and Burger, Circuit Judges, in Chambers.

ORDER

Upon consideration of appellee's petition for rehearing en banc and of appellant's answer, it is

Ordered by the court that the aforesaid petition be, and it is hereby, denied.

Per Curiam.

Dated: May 27, 1958.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 219

UNITED STATES OF AMERICA, *Petitioner*,

v.

FRANK BREWSTER and NUGENT LAPOMA

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE DISRICT OF COLUMBIA CIRCUIT

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 219

UNITED STATES OF AMERICA, *Petitioner,*

v.

FRANK BREWSTER and NUGENT LAPOMA

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE DISRICT OF COLUMBIA CIRCUIT

Respondents pray that the petitioner's application for a writ of certiorari to review the judgments of the United States Court of Appeals for the District of Columbia Circuit, reversing the contempt convictions against the respondents, be dismissed.

OPINIONS BELOW

The opinions of the Court of Appeals (B. 528a-534; L. 480-481; App. to petition, pp. 35-44, 43-44)[1] have not yet been reported.

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[1] As indicated in the petition, the record lodged therewith includes the Brewster Joint Appendix in the Court of Appeals, designated "B"; the LaPoma Joint Appendix designated as "L". L.G. Ex. 8 refers to the government print of the Subcommittee hearings and was government's Exhibit 8 on the LaPoma trial and government's exhibit 6 in the Brewster trial.

JURISDICTION

The judgments of the Court of Appeals in *Brewster* v. *United States* and *LaPoma* v. *United States*, were entered April 15, 1958; petitions for rehearing *en banc* were denied on May 27, 1958 (R. 535-543, 570; L. 482-484, 486). On June 27, 1958, by order of the Chief Justice, the time within which to petition for certiorari was extended to July 26, 1958. The jurisdiction of this Court rests on 28 USC 1254 (1). See also Rule 38 of the Rules of this Court and Rules 37 (b)(2) and 45(a) of the Federal Rules of Criminal Procedure.

COUNTER-STATEMENT OF THE QUESTION PRESENTED

Whether the provisions of the Legislative Reorganization Act of 1946 establishing the Senate Government Operations Committee and empowering it to study "the operation of *Government activities* at all levels with a view to determining its economy and efficiency" authorized the Committee to conduct investigations into "labor racketeering," the *internal affairs of labor unions* and the personal affairs of Messrs. Brewster and LaPoma.

COUNTER-STATEMENT OF THE CASE

It would not be necessary to make a counterstatement except that the petitioner's statement is far more persuasive than accurate. Some of the more serious inaccuracies are footnoted herein.

A. THE COMMITTEE AND SUBCOMMITTEE

1. Section 102 of the Legislative Reorganization Act of 1946,[2] 60 Stat. 814-820, amended Rule XXV of

[2] Hereinafter frequently referred to as the "Act".

the Senate Rules which created and defined the jurisdiction of the standing committees of the Senate. Major aims of this legislation were to simplify the standing committee system (15 instead of 33); eliminate duplication and overlapping jurisdiction, and tie each committee to its counterpart in the executive branch of the Government; and to establish more direct and intimate contact between each committee and the executive department under its surveillance. (B. 62-69; L. 7-13).[3]

Section 102(1)(g)(1) of the Act (60 Stat. 816) provided for the standing Committee on Government Operations (nee the Committee on Expenditures in the Executive Departments)

> "* * * to consist of 13 senators to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, *and other matters relating to the following subjects:*[4]
>
> "(A) *Budget and accounting measures*, other than appropriations.
>
> (B) *Reorganizations in the executive branch of the Government.*
>
> * * *
>
> "(2) Such committee shall have the duty of—
>
> "(B) Studying the operations of Government activities at all levels with a view determining its economy and efficiency;

[3] The pertinent parts of S. Rep. No. 1400, 79th Cong., 2d Sess.; H. Rep. No. 1011, 79th Cong., 2d Sess.; are reprinted in the appendix to this Brief at pages 47-60.

[4] Emphasis has been added throughout.

(C) Evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government."

It was the scheme of the Act and the Act's legislative history clearly shows that the standing committees of the Senate and not the Government Operations Committee, were to have the legislative oversight of the laws and departments over which they had legislative jurisdiction. The Act was to bring about a three-way division of labor (1) the Appropriations Committee, on one hand, would exercise financial control before expenditure through the scrutiny of departmental estimates; It would look into their budget requests to see if they were excessive or inadequate. (2) The Government Operations Committee, on the other hand, would undertake to review administrative structure and procedure. It would make a post-audit of the agency's administration to see if it had been economical or wasteful. (3) The standing legislative committees would review the operation of substantive legislation and consider the need of statutory amendments. It would hold hearings to determine whether the agency was enforcing the statute in accordance with the legislative intent or to consider proposed legislation in the light of past decisions and regulations.

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[2] Sec. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, *each standing committee of the Senate* and the House of Representatives *shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee;* and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government

The standing legislative committee concerned with amendments and modifications, and investigations concerning the Taft-Hartley Act, the National Labor Relations Board and the Department of Labor is the Senate Labor Committee; that concerned with amendments to the Internal Revenue Code and the operation of the Internal Revenue Service is the Senate Finance Committee; and that concerned with criminal statutes and crime is the Senate Judiciary Committee.[6]

The Government Operations Committee is not the legislative counterpart of the Labor Department or Internal Revenue Service; it is the legislative counterpart of the General Accounting Office and the Bureau of the Budget. It admittedly was conducting an investigation into "labor racketeering." Any legislation emanating from these hearings would have to be referred to the Senate Labor Committee and the Senate Finance Committee. Consequently, these hearings before the Committee could not have had any legislative purpose as far as that Committee is concerned.

It would be absurd to say that in eliminating jurisdictional overlaps, the Act purposely created new and greater conflicts by granting oversight of all Federal laws (including transportation, communication, antitrust, banking, agriculture, foreign affairs, etc.) to the Government Operations Committee, thereby creating a jurisdictional conflict between that committee and each of the other 14 standing committees under the guise of studying economy and efficiency of Government operations.

During the course of the debate in the Senate on the Legislative Reorganization Act, Senator McClel-

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[6] A chart showing the jurisdiction of each of these three committees is found on pages 56-59 of the Appendix to this Brief.

lan, then as now, a member of the Government Operations Committee, introduced an amendment to the Act, the effect of which would have been to give the Senate and House Committees on Government Operations the power jointly to act as the investigating arm of the Congress. The jurisdiction proposed to be given to this super Investigation Committee would cut across the jurisdiction of the other fourteen standing committees of the Senate. This Joint Committee would have had power to investigate the efficient administration of "the laws of the United States" and to determine whether new legislation was needed. The Committee could have investigated all statutes, not merely Government operations. For the first time, the concept of "economy" and "efficiency" was being related to Federal statutes rather than Governmental agencies[7]

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[7] Later on the same day, Senator McClellan offered his amendment and the following colloquy took place:

"Mr. McClellan: Under the terms of this bill as it now stands the committees would be authorized to continue to investigate, or to exercise surveillance over the particular agencies or departments of Government coming within their jurisdiction. * * * If the committee proposed by my amendment is established, there will be a standing joint committee of the two Houses charged with the responsibility imposed in the bill * * *."

Mr. LaFollette: Mr. President, I am exceedingly sorry to have to rise to oppose this amendment. * * * Secondly, we have come to the conclusion *that no one committee can possibly give oversight to the actions of the myriad agencies and departments of Government* and make certain that they are keeping within the bounds of the intent of Congress in delegating power to them to issue rules and regulations * * *. For that reason we have placed that responsibility on the reorganized standing committees. * * * It seems to me that this amendment would simply duplicate what the

This concept is contrary to the Act's attempt to establish legislative and executive counterparts. This amendment enlarged upon and expanded the term "Government activities" by setting forth an area of investigation of "practices, procedures, administrative processes" of departments or agencies of Government-owned corporations. The McClellan amendment was soundly rejected by the Senate. Thereafter, Senator McClellan, and fifteen other senators, voted against (forty-nine voting in favor) the Legislative Reorganization Act. This very power that the Committee says it now has was requested from the Senate for a Joint Committee with the House and was soundly rejected because it destroyed the scheme of the Act. (92 Cong. Rec. 6585, 6578).

The petition alleges (p. 5) that the Senate debate on the Legislative Reorganization Act indicates the extensive power that was "meant" to be granted to the Committee. The debate shows the contrary. However, to support its contention, the views of Senator LaFollette, the author of the bill and its manager in the Senate, are incorrectly represented and the statement of Senator Hill on the floor of the Senate is lifted out of context, with the result that its meaning is completely changed. Senator Hill indicated that he thought the new Committee on Expenditures in the Executive departments was to be important bookkeeping, accounting and post audit committee.

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committee has attempted to do through the standing committees. In my opinion it would disrupt the plan as we have conceived it. We feel that dumping this entire load upon one joint committee would simply swamp it. It would have neither the staff nor the time to handle the matters which he submitted to it." (92 Cong. Rec. 6565)

Previously, the Expenditures Committee had had no subpoena power and had never held a public investigation. The Comptroller General was now required to report through it to the Senate and it was to review his reports. In addition, the former authority of the Judiciary Committee over executive reorganizations was transferred to it. This did not make it a major committee or the investigating arm of the Senate.[8]

The petition makes a bold attempt (p. 5) to use Senator Aiken's remark that he was of "the opinion that S. Res. 189, 80th Cong., 2d Sess., introduced by him on January 14, 1948, would consolidate the work of the then Special Committee to Investigate the National Defense Program, expiring January 31, 1948 and the Surplus Property Subcommittee of the Expenditures Committee" (R. 301), as inferring that greatly increased jurisdiction was granted to the Committee. From this, the petitioner also argues that this Committee is the successor of the powerful Truman Committee.

All of this is a myth. S. Res. 189 merely gave the Committee funds for the exercise of authority already granted (and limited) by the Legislative Reorganization Act. All that Senator Aiken said was that the work of the old Truman Committee (which was then nil—its job having been completed), which was about to expire, could be consolidated with that of the Sur-

[8] That this was a committee of lesser importance than 12 of the other 14 standing committees is demonstrated by the fact that Section 102(4) of the Reorganization Act provided a member of the Senate could sit on only two committees with the exception that members of the majority party could also sit on the Government Operations Committee, the Post Office and Civil Service Committee or the District of Columbia Committee.

plus Property Subcommittee. Senator Aiken was not talking about increased authority and this money resolution did not mention the subject. A cursory reading of the resolution creating the Truman Committee shows how far reaching its authority was in comparison to that of the Government Operations Committee (which was very circumscribed).[9]

Although petitioner has previously conceded that the change of name from the Committee on Expenditures in the Executive Departments on March 3, 1953, to its present name carried with it no additional grant of authority, it attempts to imply otherwise in its petition (pp. 6-7). The provisions of Section 102(1)(g) of the Act have not been modified or amended and the Senate has not granted the Government Operations Committee any additional authority by Resolution.

The Subcommittee

The Investigations Subcommittee of the Government Operations Committee is not "the investigating arm of the Senate" as stated by petitioner. It is one of the many investigating subcommittees of the Senate. If the Senate had considered its role to be such, it would have conferred additional power to continue its investigation of "labor racketeering" on it rather than setting up a new committee, the Select Committee on Improper Practices in the Labor or Management Field. The present subcommittee was created by the Parent Committee on February 26, 1948, for the announced purpose of investigating the Government agencies during the Truman Administration. Its principal purpose and jurisdiction was defined as:

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[9] The resolution establishing the Truman Committee is reprinted on pages 45-46 of the Appendix herein.

> "2. The principal function of the subcommittee shall be to investigate complaints and information coming to its attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corrupt or unethical practices, and waste and extravagance in *transactions, contracts, and activities of the Government or of governmental officials or employees.*"

The Parent Committee at that time, and at the commencement of each Congress since that date, has authorized it to proceed with any investigation within the jurisdiction of the full Committee.[10]

However, the minutes of the parent committee for January 14, 1957, contain the following:

> "Senator McClellan informed the Committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week, *on the question of labor racketeering,* and that a question of committee jurisdiction has arisen between this committee and the Committee on Labor and Public Welfare * * *."

B. THE INVESTIGATION

1. The "investigation" as set forth in petitioner's application is interesting reading. Even if it were accurate, it does not set forth any facts that would justify certiorari. The investigation on the West Coast by Counsel Kennedy centered around Los Angeles (where he investigated alleged corruption in the collection of garbage), Seattle and Portland (where

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[10] The minutes of the Parent Committee for January 14, 1957, contain the following: "It was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigations as its Parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946" (L. 58).

he investigated a purported tie-up between the Teamsters and underworld elements to control vice and law enforcement). It did not involve reports required to be filed by labor unions with the Department of Labor and the Internal Revenue Service (L. 209-211, 218-219, 220-221).

Petitioner's recitation of what Mr. Kennedy investigated is wholly incorrect as Mr. Kennedy admitted on cross-examination that (1) he investigated no Teamster locals in New York; (2) received no "leads" from the hearings in 1955-56 in New York concerning the investigation on the West Coast; the Western Conference of Teamsters, Local 174, Frank Brewster or Nugent LaPoma; (3) a newspaperman, Clark Mollenhoff, gave him the idea of investigating the West Coast Teamsters first around August 1, 1956; and (4) when the investigation of the activities of Murray Chotiner ended abruptly in November of 1956, he obtained permission from Senator McClellan to look into "what the situation was on the West Coast" as to the practices unions were carrying on. Petitioner has related only the testimony of Mr. Kennedy on direct examination and has completely disregarded the testimony on cross-examination which substantially alters his original version of the investigation. (L. 147-148, 163, 209-211, 218-219).

2. Counsel Kennedy interviewed both respondents in Seattle on Saturday, December 15, 1956. He talked to Mr. Brewster first and spent almost the entire interview talking about Mr. Brewster's alleged connections with gamblers and other questionable characters. He questioned him at length about his alleged business dealings with Jim Elkins, notorious leader of the underworld and vice in Oregon. He did not ask Mr.

Brewster about tax or labor forms, union dues or assessments, or other union matters. He did not tell Mr. Brewster or his attorney, Mr. Bassett, what the interview or investigation was about. Mr. Kennedy served two subpoenas on Mr. Brewster, one for all the records of the Western Conference for a 5-year period and a similar subpoena for all the records of the Joint Council for the same period (B. 268-272, 393-397, 441-443).

Mr. Kennedy then talked to Mr. LaPoma. He handed LaPoma a subpoena and asked questions about his birthplace and schooling, and if he had ever been convicted of any crime. Mr. LaPoma told him he had not. He asked him about the use of the name "Cavano." LaPoma explained this. Mr. Kennedy did not ask any questions about tax or labor forms, union dues, or per capita assessments. Mr. Kennedy did not tell him what matter he was investigating. Mr. LaPoma thought Kennedy was investigating "racketeering" in view of the headlines regarding Mr. Kennedy that had been appearing in the Seattle newspapers and since Mr. Kennedy's first question was whether he had ever been convicted of any crime. (L. 446-449).

On December 9, 1956, Mr. Bassett, counsel to Brewster and LaPoma, telegraphed the Committee that they had not been advised concerning the particular matter in which the Committee was interested and hence the subpoenas on their face were a general search and not confined to matters which might be relevant to the inquiry. Accordingly, he informed the Committee that when they appeared before the Committee, they reserved the right to invoke the Fourth Amendment to the Constitution prohibiting illegal searches and

seizures. The Christmas holidays intervened and Brewster and LaPonna were re-scheduled to appear before the Committee on January 15, 1957.

Labor Racketeering Resolutions in the Senate

On January 7, 1957, Senator Ives reintroduced S. Res. 304 of July 5, 1956 as S. Res. 13, seeking *"authority"* and funds for the Senate Committee on Labor and Public Welfare to undertake an investigation into "labor racketeering." He stated that he knew the Committee on Government Operations had made a preliminary inquiry into the field during the Congressional recess.[11]

Thereafter, Senator McClellan introduced S. Res. 14 asking for "authority" and funds to investigate, among other things, (1) the infiltration by criminal elements into organized labor; (2) the use of violence, shakedowns, blackmail; (3) the existence of other forms of corruption, violation, evasion of laws of the United States on the part of corrupt union officials; (4) misuse and misappropriation of union funds by union officials for their personal benefit and (5) *the failure to file truthful and accurate reports with the Department of Labor pursuant to Section 9(f) and (g) of the Taft-Hartley Act* (L. 17-25).

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[11] Nevertheless, it was his position that:

> "• • • despite this valuable activity by the Senate Permanent Subcommittee on Investigations, I feel strongly that the entire subject of racketeering in organized labor lies squarely within the jurisdiction of the Committee on Labor and Public Welfare. Labor racketeering affects the whole field of labor-management relations; it also affects directly the public welfare which is endangered so long as racketeering exists. • • •" (103 Cong. Rec. 263, January 7, 1957).

Senator McClellan did not then contend his Subcommittee had jurisdiction. He believed that the Subcommittee "by reason of long experience and efficiency of its staff, is *the best equipped to conduct this type of investigation* * * *." Even though the Senate took no action on Senator McClellan's resolution (S. Res. 14), giving authority and funds for an investigation into so-called labor and tax forms, as well as labor racketeering, he proceeded to hold the hearings on January 16-19, 1957, on labor racketeering, at which Messrs. Brewster and LaPoma were called and for which they were indicted for contempt of Congress (L. 18).

Organization Meeting of Subcommittee

The Subcommittee met on January 10, 1957. Chairman McClellan informed the Subcommittee that it had information which indicated a nation-wide condition of "labor racketeering." He told the staff to pursue it. He stated that he would want to go to the Senate to obtain additional authority to broaden the Subcommittee's power to make certain there would never be any question of jurisdiction. He had told Mr. Kennedy all along that in some areas he thought the Subcommittee would have jurisdiction, other areas would be borderline *and others might be entirely beyond their jurisdiction.*[12] He said that in the last session of Congress, Senator Ives had introduced a resolution to authorize the Senate Labor Committee to investigate racketeering in unions. Because of the action on the West Coast and other publicity, it "got around to the press that we were looking into these

[12] In the petition the italicized part of the statement is omitted. This substantially changes its meaning.

things." On the day before he introduced S. Res. 14, he heard from the press that Senator Ives was going to reintroduce his resolution. The Chairman stated that Senator Ives said to him that "he thought probably both committees had jurisdiction *or some jurisdiction or something*" [13] and since he had started last year at that time, he felt he had to follow it up (L. 404).

The Chairman proposed to hold hearings in executive session and then move into public session. The Committee then discussed the possibility of working out a compromise with the Labor Committee and the leadership of the Senate. Senator McCarthy stated at this point:

> "I think that in view of the fact that *the staff of this committee has engineered this* and they have been working on it and they finally hit paydirt, it just does not seem right that another committee would barge in. I frankly would be in favor of fighting this out on the Senate floor on the question of which committee has jurisdiction. * * * We have done all of the spade work and we are ready to go ahead and I think that we should get started as soon as possible on it." (L. 408).

The Chairman noted that jurisdiction could be the main issue at the forthcoming hearings and he remarked that, in any event, the witnesses who refused to answer would be in contempt.[14]

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[13] In the petition, the italicized words are carefully omitted. This completely alters the meaning.

[14] "The Chairman: Let me ask you this: You have talked to Mitchell, have you not?

Mr. Kennedy: Yes, sir.

"The Chairman: Has he indicated his willingness to cooperate?

C. THE HEARINGS

1. The Question Under Inquiry

The question under inquiry was "labor racketeering." At the Brewster trial on June 12, 1957, the petitioner took the position that the question under inquiry was (1) "labor racketeering" which included (2) the need for new legislation to preclude unions, who had failed to file accurate reports with the petitioner, from using the processes of the NLRB and to deprive them of tax exemption. During the progress of the trial, the petitioner apparently realizing the danger of its original position, disclaimed that any

"Mr. Kennedy: Yes, he is very anxious. • • •

"Senator Jackson: Which Mitchell?

"Mr. Kennedy: The Secretary of Labor. • • •

"Senator Ervin: On some of these other things I do not believe that we would have jurisdiction, but in this one, you would.

"The Chairman: *This is the issue before us next Tuesday or Wednesday. Again, they are in contempt if they refuse.*

"Mr. Kennedy: They are going to say we do not have jurisdiction or refuse because of the Fourth Amendment. The International Brotherhood of Teamsters as well as any other teamsters unit now has indicated that they will not cooperate at all with us. • • • (L. 417)

"Senator McCarthy: • • • Why would it not be a good idea to hold the executive session Tuesday and then if there is some meat there hold an open session Wednesday when Senators Symington and Jackson and the boys can be with us.

"The Chairman: I wanted you to be prepared if we find we need to go into open session, but I do think this: *I think we should have an executive session first so as not to let them make a big horseplay in public until we know what the story is. Then, we can move into public hearings and only concentrate on that which we know we want to bring out at the time.* • • •

"Senator McCarthy: My thought would be, Senator, that as far as the executive session was concerned, with the Chairman in charge of it, *we could easily determine whether or not there was something there and take it up with you and have an* open session Wednesday, when you all could be there. (L. 418)

part of the question under inquiry was "labor racketeering."

Later, at the commencement of LaPoma's trial, the petitioner stated that the question under inquiry was the violation and nonenforcement of Government laws to determine if legislation were needed as set forth in Government laws to ascertain what *administrative* changes should be made. Any purpose at recommending new legislation was disclaimed by Government counsel though Chairman McClellan repeatedly stated this as a purpose in his opening remarks on January 16th. The question under inquiry was labor racketeering[15] and not the administration of the labor and tax forms. The Chairman in his opening statement of the hearings on January 15, in executive session, states in part:

> "In the passage of the Taft-Hartley Act in 1947, the Congress undertook to protect union members, the general public, and the Government against certain types "*of racketeering*, including the misuse or misappropriation of union funds by dishonest union officials.
>
> "* * * In the course of our previous investigations and *this present preliminary inquiry*, we have acquired information that clearly indicates that there is *labor racketeering* in the area of Govern-

[15] Mr. Kennedy defined the understanding of the "Subcommittee" of the terms "labor racketeering" as including (1) misuse of welfare and pension funds; (2) *collusion between management and labor to the detriment of the union members;* (3) *bribery by management;* (4) *extortion;* (5) *the use of violence and terrorism in labor unions;* and (6) *the lack of democratic* rights within labor unions. (L. 183)

ment procurement[16] resulting in increased costs to the taxpayers for commodities produced."

This statement was prepared after the Committee had knowledge that the Teamsters were going to challenge its jurisdiction. More competent are the statements of the Chairman made to the meetings of the Subcommittee on January 10 and the full Committee on January 14, 1957.

At the January 10 meeting of the Subcommittee, the Chairman stated that the Subcommittee had received information indicating a "nation-wide condition with respect to labor racketeering." He told the staff "to pursue it and get some preliminary information" (L. 402). The minutes of the Parent Committee of January 14, 1957, stated, in part, as follows:

> "Senator McClellan informed the Committee that hearings would begin before the Subcommittee on Investigations on Wednesday and Thursday of this week on the question of *labor racketeering*, and that *a question of committee jurisdiction* had arisen between this committee and the Committee on Labor and Public Welfare."

2. Hearings Before Subcommittee

The hearings before the Subcommittee in executive session commenced on January 16th. Chairman McClellan read an opening statement, parts of which are set forth in pages 14 to 17 of the petition. From such

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[16] See the Report No. 1166, 85th Cong., 1st Sess. (Sept. 6, 1957), which covers some 68 pages on the investigations by this Subcommittee and to which the Chairman refers. The Report speaks of fraud in military procurement and not once in the whole report does it allude to labor racketeering.

statement Messrs. Brewster and LaPoma (who were later given copies) determined that the Committee was still investigating *labor racketeering* as the Chairman made several references to that subject and never did make clear exactly what was the question under inquiry. It heard Judge Leedom, Secretary Mitchell and Messrs. Winkle and Barnes in the morning session. In the afternoon it called Messrs Brewster and LaPoma and Arthur Santa Maria, among others. All of these witnesses appeared in executive session (L. G. Ex. 8, pps. 3-56).

Testimony of Government Officials

Judge Leedom was examined on the procedure in the filing of these labor reports. Secretary Mitchell was questioned about the labor forms. His views were that: If it were desired to have the Department go into the accuracy of these forms, "it would have to be by legislation because administratively, I think the law is being complied with as it is now written." Senator McClellan stated that one union had not held an election in twenty-five years. He asked the Secretary to comment upon the laws as to the election of union officers. Senators McClellan and Symington asked the Secretary, among other things, questions concerning the infiltration of some unions by racketeers and hoodlums.[17]

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[17] At the close of the Secretary's testimony the following colloquy transpired between the Chairman and the Secretary:

"The Chairman: * * * Reflections are often cast upon the whole labor organization movement by reason of these incidents that occur. We are speaking of racketeers getting a hold or people filing false returns, and so on. It is bound to reflect upon the whole organization, and if we can eliminate that then we are actually rendering a service to the

Messrs Winkle and Barnes of the Revenue Service testified that it was impossible to audit very many of the returns filed by tax-exempt organizations.

The following colloquy then ensued:

> "The Chairman: * * * If a labor union official or the union reporting on its financial report, or annual report—if the disclosure of the amount of compensation and allowances are fraudulent or false as to the officers' compensation, would you not be interested in checking the records of that labor union to ascertain the extent to which the officer was defrauding the Government on his income tax?
> Mr. Barnes: We certainly would, sir. * * *
> The Chairman: Can you get the records of the labor union for that purpose?
> Mr. Barnes: If the law is followed, we think we can." (G. Ex. 8, pp. 18-19)

Testimony of Mr. Kennedy Before Subcommittee

The Subcommittee met at 10 a.m., Thursday, January 17th *in public session* for the first time. Mr. Kennedy, counsel to the Subcommittee, testified that Messrs. Santa Maria, Virgilio, Petrozza and Reiss were trustees or officers of New York Local 496 of the Chemical Workers. He said that the charter of this local was revoked because of evidence that its officers

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labor movement and to labor as an organization or institution. Would you agree with that?

"Secretary Mitchell. I agree with that; yes, sir.

"Chairman: I wish to say that so far as the chair is concerned, I echo the sentiments of every member of this Committee that that is the objective of this investigation to try to do just that, and not to reflect upon or to do any harm or injury to unions that are operating in compliance with the law, but try to reach those who are apparently beyond the pale of it now and who are taking advantage of it."

were involved in extortion charges. This local union then became part of Local 227 of the UAW-AFL which was controlled by a well-known hoodlum, Johnny Dio. When Dio became involved in trouble with the State, Local 227 obtained a charter as Local 284 of the Teamsters. It was a "paper local" as no members were transferred. Senator McCarthy asked Mr. Kennedy to bring out that the purpose of these "paper" unions was to obtain votes in a union election contest between the hoodlums and the honest labor element.

Testimony of Other Witnesses

Messrs. Virgilio and Petrozza took the Fifth Amendment on most preliminary questions. Mr. Vincent Trani, an officer of one of the "paper locals"; Mr. Arthur Santa Maria; Mrs. Kabat, an employee of Local 227 then testified. Trani and Santa Maria took the Fifth Amendment. Mrs. Kabat was interrogated concerning the forging of checks by union officers. Mrs. Taylor was questioned about Messrs. Virgilio, Petrozza and Santa Maria's connection with Johnny Dio, notorious gangster, and their critical remarks concerning Victor Reisel. (G. Ex. 8, Kabat 116-122; Taylor 126-131). The Subcommittee reviewed Arthur Santa Maria's criminal record and brought out that he had convictions for bookmaking in 1939, 1943, 1945, 1950 and 1951. He was also interrogated concerning an alleged arrest for extortion.

On January 18, Mr. Einar Mohn, an International Vice President of the Teamsters, was interrogated about a telegram to officers of the International, advising them, among other things, that a group of attorneys representing the International and various locals

had met in Chicago on January 3, 1957, and were of the opinion that the Subcommittee "is not engaged in an inquiry into specific situations within their constitutional and statutory authority and that a 'fishing expedition' beyond the scope and authority of the Committee is being conducted." He was asked for his opinion as to which committee had authority. Mr. Mohn respectfully declined to answer these questions on the ground that the Subcommittee lacked jurisdiction (G. Ex. 8, pp. 180-184, 187-193).

At the opening of the hearing on Saturday, January 19, 1957, the Chairman made the following statement, in part:

> "The Chair wishes to announce * * * that * * * since yesterday at noon when we recessed, the Committee has heard a number of witnesses in executive session, *witnesses who gave testimony of importance quite pertinent to the subject matter under inquiry* and testimony that indicates conditions prevail that are of interest to the Congress in its investigation of Government operations with respect to its efficiency and economy." (L. 396)

The witnesses to whom he referred were Stanley Earl, a city commissioner of Portland, Oregon; Wallace Turner and William Lambert, newspaper reporters from Portland; Leo Plotkin, a procurer from Portland; and Geraldine Taylor from Bayonne, New Jersey (L. 268-269). Not one testified about labor or tax forms (L. 43-114).[18]

[18] Despite this, it should be noted that the transcript of this hearing was labeled "Violation or Non-enforcement of Government Laws and Regulations in the Labor Union Field" (43). This title was put on the Government print of the hearings after Messrs.

Turner and Lambert testified concerning alleged attempts of Teamsters to take control of law enforcement, vice and rackets in Portland (L. 81-86). Elkins, Earl and Plotkin testified concerning alleged attempts of Teamsters to control prostitution, an abortion ring and other vice. They testified concerning the alleged use of threats, violence, extortion and bribery by various Teamster officials and the attempt to take over law enforcement in Oregon (L. 63-79; L. 86-105; 105-115). The Subcommittee attempted to make Witness Tols, a call-house madam, admit that the Teamsters set her up in business and controlled prostitution (L. 53-56). The Chairman said that this testimony was of "importance quite pertinent to the subject matter under inquiry" [19] (L. 396). Thereafter, Messrs. Brewster and LaPoma were called to testify.

3. Brewster's Alleged Contempts

On January 16, 1957, Mr. Brewster appeared in executive session before the Subcommittee in Washington, D. C. He informed the Chairman that he

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Brewster and LaPoma were indicted. In the words of Mr. Justice Frankfurter, it has the usual infirmities of *post litem motam*, self serving declarations. However, the petition is most misleading and attempts to give a contrary impression when it states that "On January 16, 1957, the Subcommittee commenced its hearings on the subject: Violations or Non-enforcement of Government Laws and Regulations in the Labor Union Field," citing (B. 309; L. 327).

[19] In the trial of Mr. Brewster, Government Counsel asked Mr. Kennedy who was the Government's only witness in that case, as follows (Tr. 129):

> "Q. Were you its counsel (the Subcommittee's) in the conduct of the hearings on labor racketeering, so-called?
>
> "A. I was. I was counsel in January of 1957 when we went into some matters that had to do with that."

had prepared a statement. He gave his name and address and stated that he was Chairman of the Western Conference, President of Joint Council 28, the Joint Council Building Association and Local Union 174. As soon as his counsel, Samuel B. Bassett, Esquire, identified himself, Senator McCarthy made the point that a lawyer representing a union could not also represent a union official accused of wrongdoing. (B. 131)

The Chairman asked Mr. Brewster if he appeared in response to two subpoenas. He was asked to identify them, which he did. Senator McCarthy took over and again asked Mr. Bassett to find out who was paying his fee before he reappeared. The Chairman asked Mr. Brewster if he had read the Chairman's opening statement, if he understood the purpose of the hearing. Mr. Brewster replied, "As near as I could understand the statement." He was asked to identify an exchange of telegrams between the Chairman and himself. He did this. The Chairman inquired if Mr. Brewster had brought the subpoenaed documents. Mr. Brewster read the prepared statement which had been filed in accordance with Subcommittee Rules. The Chairman stated that Mr. Brewster raised a question of constitutionality and of the Committee's exceeding its authority. He asked him to state his position with reference to that. Mr. Brewster stated, "I do not intend to answer any questions until the Committee is lawfully and legally recognized, this Committee, as to its authority." He was then excused and informed that there would be open hearings the next day (B. 134-136, 141).

On January 19, 1957, he was recalled. He was asked his name and address, which he gave. He was

asked his occupation. He informed the Chairman that his occupation was set forth in his prepared statement. He courteously declined to answer after being directed to do so. Although he had filed his statement in accordance with the Committee Rule, the Chairman refused to permit him to read it. Later, however, after Senator McCarthy suggested that these proceedings might result in criminal prosecutions and that one never knew when you might encounter a "Bailey Aldridge," a majority of the members insisted he be allowed to read his statement. The Chairman stated that Brewster would not receive "any special priyileges" just because he was a union "big shot." The similar statement filed by him regarding the records of Joint Council 28 was ordered printed in the record. In these two statements Mr. Brewster respectfully declined to answer questions or produce documents on the grounds that (a) the language of the subpoenas was so broad as to violate the Fourth Amendment and (b) the Subcommittee was acting in excess of its authority. He respectfully declined to answer further questions on these two justifications (B. 156-157).

4. LaPoma's Alleged Contempt

Immediately thereafter, LaPoma was called into executive session to testify. He was asked and gave his name and address. His counsel, Samuel Bassett, Esquire, was identified. Mr. LaPoma then identified a copy of the subpoena served on him on December 15, 1956, commanding him to appear and produce the books and records of Local 174 for the period from January 1, 1951 to December 31, 1955. Mr. LaPoma acknowledged that he had seen the opening statement

of Chairman McClellan, distributed outside the closed hearing room and shown to him (G. Ex. 8, pps. 47-48). He testified that he had not brought the subpoenaed records. He then read a statement previously filed with the Committee in accordance with its rules. This statement gave as his reasons for not producing such records that (1) the Subcommittee was proceeding in excess of its lawful authority by going into internal affairs of Local 174 and that (2) he was advised by counsel that the subpoena was so broad as to violate the Fourth Amendment to the Constitution. Mr. LaPoma refused to answer further questions on these two justifications. The Chairman then excused Mr. LaPoma. His conviction for contempt of Congress stems solely from his second appearance (G. Ex. 8, pp. 48-49).

On January 19, 1957, Mr. LaPoma was recalled. His previous statement was ordered printed in the record, and he read a part of the statement identifying him. He was asked if he had made available the records called for in the subpoena of December 15, 1956. He stated that he had not produced them for the reasons set forth in his statement. The Chairman asked, "Do you have any intentions now of producing these records under this subpoena?" LaPoma refused to answer for the same reasons.

The Chairman asked him if he had heard the statements made to the Witness Brewster with respect to the question under inquiry. He stated that he had. Mr. LaPoma was shown three financial reports of Local 174, for the years 1954, 1955 and 1956, filed pursuant to Section 9(f) and (8) of the Taft-Hartley Act and signed by him as Secretary-Treasurer of Local 174. He was asked to examine the documents and to

identify his signature. He declined to do either on the grounds set forth in his statement. He was asked if he had any further reasons for refusing to produce the records.

5. Subsequent Events

This series of hearings at which Messrs. Brewster and LaPoma testified, adjourned January 19, 1957. Meanwhile, a controversy had arisen between the Labor Committee and the Government Operations Committee as to which had jurisdiction, if either, (and should be granted authority and funds) to conduct the investigation. A Select Committee was established on January 30, 1957, pursuant to S. Res. 74 to investigate criminal and other improper activities in the labor or management field. Learning of its adoption, Messrs. Brewster and LaPoma immediately sent a joint telegram to Chairman McClellan offering to turn over their records to the Select Committee and to testify as requested. (B. 70-91, 413; L. 456.)

On February 7, 1957, the Parent Committee voted to cite Messrs. Brewster and LaPoma for contempt.[20] The next day LaPoma was served with a subpoena and turned over the records of Local 174 to a Select Committee investigator. He was informed that his appearance before the Select Committee was not then required.

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[20] The minutes of the Parent Committee of February 7, 1957, show that Senator Jackson agreed to vote for the contempt citations only if Messrs. Brewster and LaPoma and others (Mohn and Reiss) would not testify before this or the Select Committee. Apparently Senator McClellan never informed Senator Jackson, Senator Humphrey and the other Committee members, or the Senate, that Brewster and LaPoma had agreed to turn over (and did turn over on February 15) the requested records and to testify as required.

The subpoenaed records of the Western Conference and Joint Council 28 were turned over to the staff of the Select Committee in Seattle on February 15 and the Chairman was so notified by telegram of February 17. On February 19, the Chairman pressed a resolution in the Senate to cite Messrs. Brewster and LaPoma for contempt without informing that body that they had turned over the subpoenaed records and had offered to testify as required.

Pursuant to Mr. Brewster's offer to testify before the Select Committee, the Chairman wired him to be in Washington on February 28, 1957, when the hearings before that Committee commenced. He appeared and reported to Committee Counsel on that day and daily for almost three weeks. Finally, on March 15th, he was called before the Select Committee. He testified on March 15, 18, 19, 20 and 21. He answered all questions of the Committee and gave it complete cooperation as he had promised he would do.

In all fairness to Mr. Brewster the Senate should have informed the Justice Department that he had given the Select Committee complete cooperation and ask that his indictment for contempt of Congress be dropped.

REASONS FOR DENYING THE WRIT

As the Rules of this Court make abundantly clear, a review on writ of certiorari is not a matter of right but rather one of sound judicial discretion. Review will be granted only where there are special and important reasons therefor, such as where a Circuit Court of Appeals (a) has rendered a decision in conflict with another circuit on a similar and important matter, (b) has decided an important question of Federal law

which has not been, but should be, settled by this court, (c) has decided a Federal question in a way probably in conflict with applicable decisions of this Court, or (d) has departed from the accepted and usual course of judicial proceedings. No one of these reasons, or any other important reason, is presented by the petition.

The decision below was rendered on April 15, 1958, by a division of the Court of Appeals which was composed of Associate Justice Stanley Reed,[21] Circuit Judges E. Barrett Prettyman and David L. Bazelon. Thereafter, petitioner filed a rather elaborate petition for a rehearing before that Court of Appeals, *en banc*, contending that the same should be granted because (1) the cases involved "a question of extraordinary public importance" and (2) there was a question whether the decision of the Court should be overruled. The Court of Appeals, sitting *en banc*, denied petitioner's application on May 27, 1958.

Under the Rules of that Court of Appeals, the mandate could issue three days after, May 30, 1958. Since May 30 was a holiday, the third day expired on Saturday, May 31. The mandate, however, issued the following Tuesday, June 3, 1958. This case *was of such public importance to* the petitioner, it is alleged, that the mandate was allowed to issue to the lower court without its asking for a stay in order to seek certiorari; petitioner having had only 46 days in order to prepare itself to ask for a stay.

Thereafter, a motion to recall the mandate was made by petitioner and the Court of Appeals was informed

[21] Associate Justice Reed sitting by designation, dissented from the opinion of the Court. Although petitioner cites this dissent it is not used as a basis for requesting certiorari.

that opposing counsel had been served with a copy of such motion, whereas, in fact, they have never been served. Counsel learned of the motion when they received a copy of the Court of Appeals' order allowing the recall of the mandate *because no objections had been filed.* That is how these cases which involve a question of such "public importance" have been treated.

Contrary to petitioner's contention, the decision of the Court of Appeals has in no way restricted, curtailed, or affected the power of the Senate Committee on Government Operations to acquire information in pursuit of its proper legislative function as set forth in the Legislative Reorganization Act. The decision followed the scheme of the Act and the intent of Congress. The power of the Senate to investigate has not in any way been affected by the decision. The power of investigation is not unlimited and the Act restricted the power to the specific jurisdiction of each of the committees which the court's opinion clearly recognizes.

The correctness of the decision is emphasized by the fact that Circuit Judges Prettyman and Bazelon took divergent views in at least four contempt cases in which the jurisdiction of the particular committee, as set forth in the Legislative Reorganization Act, was one of the issues. In each instance, Circuit Judge Prettyman joined in the opinion of the Court and Circuit Judge Bazelon dissented. However, in the present case, Circuit Judge Bazelon wrote the opinion in which Circuit Judge Prettyman joined.

The decision is in accord with the decision of the Second Circuit involving the identical question con-

cerning the same Subcommittee, in *United States* v. *Lamont,* 236 F.2d 312 (1956), and with the decision of the Federal District Court in Massachusetts, *United States* v. *Kamin,* 136 F.Supp. 791 (1956). Petitioner, however, attempts, as it did in the District Court and the Court of Appeals and in its petition for rehearing *en banc,* to confuse the issue of jurisdiction by citing *Maragon* v. *United States,* 187 F.2d 79 (D.C.Cir.), cert. den. 341 U.S. 932 and *United States* v. *O'Connor,* 135 F.Supp. 590 (D.D.C.), reversed on other grounds, 240 F.2d 204 (D.C. Cir. 1956). These cases are completely inapposite for the following reasons.

Maragon v. *United States, supra,* involved a perjury conviction of a five percenter who demanded to be heard because his name had been mentioned by other witnesses before the Investigations Subcommittee of the Senate Government Operations Committee. Maragon himself invoked the jurisdiction of the Committee by demanding that he be allowed to clear his own name. The charge of perjury arose in connection with the subsequent hearing in which it developed that Maragon was engaged in procuring essential oils for a private perfume company at the same time that he was an employee of the State Department on a Government mission to Greece at Government expense. In addition to the invocation of the jurisdiction of the Committee by the witness, it is clear that this was an investigation of a "Government activity" and wrongdoing on the part of a "Government employee."

United States v. *O'Connor, supra,* was reversed on order of the Court of Appeals in *O'Connor* v. *United States,* 93 App.D.C. 373, 240 F.2d 404 (1956). This case involved the investigation of the United States Information Service, a Government agency, and its

overseas library. Congress in establishing that agency has set forth its purpose as that of disseminating American democratic ideals. A number of books written by alleged Communist authors or former Communists (including O'Connor) had been purchased and placed in the overseas library. O'Connor had no contact with the Government and his books had been purchased in the open market. Nevertheless, the Subcommittee called O'Connor and questioned him about his Communist party activities. He refused to answer and was indicted for contempt of Congress.

The only evidence before the District Court as to the authority of the Subcommittee on Investigations was the testimony of the late Senator McCarthy that the Government Operations Committee had redelegated all its power to the Subcommittee "sometime" in 1948 or 1949 and at the beginning of each session thereafter. The opinion of the Court of Appeals specifically states that although the appellant raised the question of the jurisdiction of the Committee and its Subcommittee and of pertinency, "We do not pass upon these contentions for the conviction in any event must be set aside because the question asked was so imprecise and ambiguous," that the refusal was not a crime.

In the *O'Connor* case, *supra*, the District Court made no exhaustive study of the problem of the jurisdiction of the Committee as did the Court in *United States* v. *Kamin*, 136 F.Supp. 791 (D. Mass. 1956). Nor did it cite any precedent or authority for its reasoning. The decision is clearly wrong. The Subcommittee had reached the point of investigating "O'Connor's activities" and not "Government activities." There is no reason to believe that the District Court's holding regarding the jurisdiction of the Subcommittee was

any more considered than its holding on the vagueness of the questions propounded, which the Court of Appeals reversed. Contrast the nebulous holdings for which these cases are cited with the decisions in *United States* v. *Lamont*, 236 F.2d 312 (2d Cir. 1956) and *United States* v. *Kamin*, 136 F.Supp. 791 (D. Mass. 1956), where the principal issue involved was the jurisdiction of the Government Operations Committee and its Subcommittee and which was held adverse to the Government and in accord with the court's decision in this case.

The lack of merit in appellee's petition is shown by the fact that it relies (1) on the *Maragon* case, *supra*, where the issue of jurisdiction of the Subcommittee could not be questioned as it dealt with a "Government activity," the Department of State, and one of its employees; and (2) the *O'Connor* case, *supra*, which although reversed on another ground, did not consider the question of jurisdiction in the manner of the case at bar, the *Lamont* case, *supra*, or the *Kamin* case, *supra*.

The remarkable aspect of petitioner's assertion that the decision of the Court of Appeals curbs the Subcommittee's power to investigate the accuracy of labor and tax forms filed by labor unions is that this was not the subject under inquiry before the Subcommittee. The petitioner shifted its position four different times during the trial of these two cases. In its opening statement, and during the first half of the Brewster trial, it contended that the subject under inquiry was "labor racketeering." The subpoenas pursuant to which Messrs Brewster and LaPoma appeared, demanded all the books, records and other documents of Local 174, Joint Council 38 and the

Western Conference. They were not limited to, or did they refer to, tax and labor forms. The chairman of the Parent Committee and the Subcommittee informed the members of both in executive session that he was going to hold hearings on "labor racketeering." His opening statement referred several times to "labor racketeering."

The petitioner alleges that the Court has curbed "the Senatorial power." This is not so. The opinion states the power of Congress to conduct the inquiry is conceded. Messrs. Brewster and LaPoma stated repeatedly, and before the Subcommittee, that the Senate itself had the authority to undertake the investigation or to grant that authority to any standing, select, or special committee (which it did on January 30, 1957), to conduct the then present inquiry. When it created the Select Committee, Messrs. Brewster and LaPoma telegraphed its chairman, within 24 hours, that they would turn over all records to it (which they did before they were cited for contempt before the Government Operations Committee), and testify as required. Mr. Brewster came to Washington, pursuant to Chairman McClellan's request, and sat around for almost three weeks waiting, to testify, and then testified fully for five days. When Mr. LaPoma turned over the records of Local 174, he was excused by a staff investigator from testifying before the Committee for the time being and has never been called to testify to date.[22]

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[22] It should be noted that no new subpoena was ever served on Mr. Brewster after the Select Committee was established. Chairman McClellan relied on the subpoenas issued by Mr. Kennedy on December 15, 1958.

Therefore, it should be asked what purpose will be served in granting the writ. None. To make sure Mr. Brewster, who cooperated fully with the Senate and the Select Committee, is made to serve the longest sentence ever meted out in a contempt of Congress case ($1,000 fine and one full year's incarceration, no part of which was suspended.) Messrs. Brewster and LaPoma have always conceded that the Senate had the authority to obtain their records and testimony. The Select Committee has all the records of Local 174, Joint Council 38 and the Western Conference. The Senate has never been denied records in this matter that might aid in whatever legislative purpose it had.

The most important thing to note in this entire controversy is that, if the Senate itself believes that the authority given by the Legislative Reorganization Act to the Government Operations Committee, has in any way been restricted or limited, it can correct this in less than five minutes by passing a simple resolution, specifically granting the committee that authority. Article I, Section 5 of the Constitution provides, among other things, that each house may determine the Rules of its Proceedings.[23]

The fact that the Senate voted for the contempt citations of Messrs. Brewster and LaPoma is no indication of the Senate's serious attitude. At the time that the contempt resolutions were passed by the Senate, there were seven senators on the floor. It was represented to those present that Messrs. Brewster and LaPoma had "defied" the authority of the United States Senate. This was not true. They conceded

[23] Sec. 101 of the Legislative Reorganization Act specifically recognizes this.

the authority of the Senate. Their later conduct before the Select Committee bears out what they earlier stated in writing was their intention. They did defy the authority of the Subcommittee. However, this issue was never properly and accurately placed before the Senate. Therefore, the action of the Senate cannot be said to be a recognition of petitioner's viewpoint of the Subcommittee's authority. If the Senate is going to call on the Federal Courts to punish for contempt it should give careful consideration to all the facts resulting in the requested action and not cite a citizen for contempt as a perfunctory matter.

In fact, as the Court of Appeals set forth in a footnote, the Senate recognized the contrary when it created the Special Committee to take over this investigation into "labor racketeering" it recognized that the Government Operations Committee had commenced such investigation without authority.

However, the petition is a real enigma. It sets forth the "Question Presented" as one involving a very narrow investigation—limited to the subpoenaing of records in connection with an inquiry into the filing and accuracy of tax and labor forms. Yet, when one turns to page 11 of the petition, he is confronted with the fact that there petitioner is contending that there was a "broad investigation" into Teamsters operations on the West Coast.

Petitioner alleges (p. 25) that the decision below "holds that the Subcommittee's power to investigate the administration of Federal statutes does not extend to inquiries directed to the very persons regulated by the legislation." This is a complete non-sequitur. The Government Operations Committee was never

granted jurisdiction to investigate substantive laws administered by the various departments and agencies. Its mission is rather to investigate the functioning of the various departments

It further says that it would be no part of a study of the efficiency and operation of the tax laws to determine from corporation officers whether a particular corporate tax exemption would result in unduly large surpluses for a particular group of corporations. That is absolutely correct. "Corporate activities" are not "Government activities." The Senate Finance Committee in the Senate, and the Ways and Means Committee in the House, have the jurisdiction to make such a study and determination as their jurisdiction extends to all revenue measures. It is common knowledge that the Joint Committee on Internal Revenue Taxation (composed of seven members of the Senate Finance Committee and the House Ways and Means Committee) are making continuous studies concerning the administration of the Internal Revenue Code and its effect on the nation. No other committee in either house could have any legislative purpose in undertaking such an investigation. Any bill resulting from such an investigation would have to be referred to the Senate Finance and the House Ways and Means Committees.

The petition continues (p. 25) that "apparently" the only witnesses the Subcommittee could properly call to aid it in its investigations would be government officials or third persons not connected with the regulated activity. *"It was never the intent of Congress that the Committee could call before it persons not employed by the Government, holding no office*

or trust from the Government and receiving no Government funds for the purpose of a general inquisition into the internal affairs of labor unions and the personal affairs of the union's officers.

The petition shows no comprehension whatever of the scheme of the Legislative Reorganization Act. The jurisdiction of each committee is defined in terms of its executive counterparts in the Government. Union officials do not deal with the Government, in the sense that Government contractors do. To adopt petitioner's view of "oversight" would completely destroy the Act and the Committee system.

The recent investigation into workings of some of the administrative agencies by the Oversight Subcommittee of the House Interstate and Foreign Commerce Committee shows a clear comprehension of the scheme of the Act. When Mr. Goldfine's activities were under investigation—questions arose concerning his personal income tax and the income taxes of some of the corporations that he controlled. Chairman Harris of the Interstate and Foreign Commerce Committee refused to go into these matters and referred them to the Ways and Means Committee. Later, in the same series of hearings, questions concerning a certain military contract came up. Chairman Harris again refused to go into that matter, but rather referred it to the House Armed Services Committee for action.

The Subcommittee never limited the scope of its investigation into "labor racketeering" as petitioner would have one believe. The statement in the opinion of the Court of Appeals that:

> "According to the logic of appellee's view, the Committee would have authority, under its duty to study the 'economy and efficiency' of 'the operations of Government activities,' to investigate all persons and companies subject to laws dealing with internal revenue, transportation, communications, banking, agriculture, shipping, subversive activities, immigration, health, international relations, etc., etc. This, for all practical purposes, would give the Committee on Government Operations jurisdiction to investigate *virtually every activity engaged in by every person in the land.* * * * [Emphasis added]

was brought forth by the fact that this was and has always been the contention of the petitioner in the Courts below. The terms of the subpoenas show that there was no restriction or limitation on the records of Local 174, Joint Council 38 and the Western Conference. They sought everything for a 5-year period.

The Subcommittee investigated the very matters that the Select Committee later went into. Counsel Kennedy testified that Witnesses Earl, Turner, Lambert, Plotkin, Tols and others who testified on alleged attempts of the West Coast Teamsters to take over control of organized crime, vice and law enforcement in Portland, Oregon, and elsewhere, gave substantially the same testimony in executive session before the Subcommittee as they later gave in open session before the Select Committee.

II

1. The decision raises no "grave" question of judicial supervision over the investigative prerogative of Congress. As Chief Justice Warren pointed out in *Watkins* v. *United States*, 354 U.S. 178, 77 S.Ct. 1173,

(1957), and Judge Bazelon in these cases, the Committee (through the contempt citation) is asking the court for something. It is invoking the judicial process to have these witnesses held in contempt and punished. Consequently, its action must conform to the Constitution and the relevant statutes.

The charter of the Committee is explicit. It empowers it to study the Government operations to determine what savings can be effected in specific cases of inefficiency and waste. This language is budget and accounting language that has been used in the Budget and Accounting Act of 1921 and in all the Executive Reorganization Acts. Since the creation of that office, the Comptroller General's duties have been defined in similar terms. The meaning of these terms has been clear for two decades—it is clear that it refers to functions of departments and not to the provisions of statutes and their effect on the "national economy."

The petitioner would have one believe that Congress has been placed on the horns of a dilemma—that only two avenues of approach are open to it. It must either endow a committee with such broad authority to defeat any claim of lack of jurisdiction—this would lead to an overlap of jurisdiction. Or, on the other hand, Congress must define minutely the exact functions of a committee—this would require that Congress forecast accurately the precise area of investigation before any investigation were begun. This argument is not worthy of an attempt to refute it.

Congress has delineated the various jurisdictional areas. A labor racketeering investigation cuts across the jurisdiction of three committees of the Senate—Labor, Finance and Judiciary. In such a case it is

necessary that a special or select committee be established to do the job, which was done. This was clearly foreseen by the framers of the Act. It is not too much to ask of Congress. In fact, in all of the investigations held during the 157 years prior to 1946, prior approval of the house concerned was required. It was accomplished by simple resolution. In fact, frequently a hearing was often held to determine if such an investigation was needed or was wise.

The breadth or lack of precision of the provisions of the Legislative Reorganization Act can always be cured by a clear and concise statement of the chairman as to the subject under inquiry. This court made that clear in *Watkins* v. *United States, supra.*

2. Petitioner alleges that these cases raise issues similar to two cases presently before this Court, *Barenblatt* v. *United States,* 252 F. 2d 129, (No. 35, this Term, certiorari granted, 356 U.S. 929), and *Flaxer* v. *United States,* — F. 2d — (No. 60, this Term, certiorari granted 357 U.S. 904).

Not only is the principal issue in those cases one of pertinency, but the *Barenblatt* case, *supra,* involves a hearing before the House Un-American Activities Committee and the *Flaxer* case, *supra,* a hearing before the Senate Internal Security Committee. The petition fails to point out how a decision involving the jurisdiction of the Government Operations Committee could be aided even remotely by argument or a determination concerning the authority of these other two committees. In fact, a reading of the petition would have one believe that since the Subcommittee is "the investigating arm of the Senate," no other investigating committee of the Senate could be more than a mere shell.

Even if certiorari were granted, and even if the decisions below were reversed, these cases would have to be remanded for a determination of the following other principal issues, raised and briefed and argued below:

(1) That 2 U.S.C. 192 read with the authorization of the Committee is so indefinite as to deprive appellants of due process;

(2) Questions not pertinent to question under inquiry;

(3) Subpoenas were too broad and indefinite and violated Fourth Amendment;

(4) Court erred in refusing to admit testimony or to consider purge as (a) a defense and (b) extreme mitigating circumstances;

(5) Court erred in excluding evidence relevant to question under inquiry; and

(6) Appellants denied right to an impartial (a) grand jury and (b) trial jury.

All of these were important issues in the case which the Court of Appeals did not reach or pass upon. It reached a decision on the lack of authority of the Committee and did not dispose of these other issues in its opinion.

As set forth herein, there is no compelling reason why the writ should be granted. The decision below does not conflict with any decision within or without the circuit. Its holding regarding the lack of authority of the Committee is in accord with the holding of the Second Circuit in the *Lamont* case, *supra*, and the Massachusetts District Court's decision in the *Kamin*

case, *supra*. It is decided in accordance with the principles laid down by this Court in *Watkins* v. *United States, supra*. It involves no novel or important principles of law. Likewise, there is no element of great public interest. Even if certiorari were granted and the decision reversed, it would not necessarily dispose of these two cases and it certainly would not be dispositive of any cases presently pending in the Federal Courts.

CONCLUSION

For these reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

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August 14, 1958

APPENDIX

1. Authority of Government Operations Committee—Section 102(1)(g) of the Legislative Reorganization Act of 1947 (Public Law 601, 79th Cong., 60 Stat. 814-820)

"(g) (1) Committee on Expenditures in the Executive Departments, to consist of thirteen Senators to which committee shall be referred all proposed legislation, messages, petitions, memorials and other matters relating to the following subjects:

(A) Budget and accounting measures, other than appropriations.

(B) Reorganizations in the executive branch of the Government.

(2) Such committee shall have the duty of—

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(B) studying the operation of *Government activities** at all levels with a view to determining its *economy* and *efficiency;*

(C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(D) studying intergovernmental relationships between the United States and the States and Municipalities, and between the United States and International Organizations of which the United States is a member."

2. Excerpts From Delegations of Authority From Government Operations Committee to Its Subcommittee on Investigations

(a) February 26, 1948 Committee Minutes

"2. *The principal function of the subcommittee shall be to investigate complaints and information coming to its*

*Emphasis has been supplied in each instance herein.

attention involving the possible existence of fraud, malfeasance, misfeasance, collusion, corruption or unethical practices and waste and extravagance in transactions, contracts and activities of the Government or of Government officials or employees.'

"3. Studies of routine problems of management or administrative economy or efficiency such as are made from time to time by the staff of the Committee on Expenditures and which do not require extensive work of an investigating character shall not ordinarily be included in the duties of the subcommittee."

(b) January 14, 1957 Committee Minutes

"It was reaffirmed that the Senate Permanent Subcommittee on Investigations is authorized to continue to conduct such investigation as its Parent Committee, the Committee on Government Operations, is empowered to conduct under the Legislative Reorganization Act of 1946."

3. Resolution Establishing Truman Committee (Special Committee to Investigate the National Defense Program) 87 Cong. Rec. 1615, Part 2; Sen. Res. 71, 77th Cong., 1st Sess.

RESOLVED, That a special Committee of seven Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete study and investigation of the operation of the program for the procurement and construction of supplies, materials, munitions, vehicles, aircraft, vessels, plants, camps, and other articles and facilities in connection with the national defense, including (1) the types and terms of contracts awarded on behalf of the United States; (2) the methods by which such contracts are awarded and contractors selected; (3) the utilization of the facilities of small business concerns, through subcontracts or otherwise; (4) the geographic distribution of contracts and location of plants and facilities; (5) the effect of such program with respect to labor and the migration of labor; (6) the performance of contracts and the accounting required of contractors; (7) benefits accruing to contractors with respect to amortization for the purposes of taxation or otherwise; (8)

practices of management or labor, and prices, fees, and charges, which interfere with such program or unduly increase its cost; and (9) such other matters as the Committee deems appropriate. The Committee shall report to the Senate, as soon as practicable, the results of its study and investigation, together with its recommendations.

For purposes of this resolution the Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and, act at such times and places during the sessions, recesses, of the adjourned periods of the Seventy-seventh and succeeding Congresses, to employ such clerical and other assistance, to require by subpoena, or otherwise, the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to make such investigation, to administer such oaths, to take such testimony, and to incur such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the Committee, which shall not exceed $15,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

4. Excerpts From Senate Report No. 1011, 79th Cong., 2d Sess. (pp. 1-6)

REORGANIZATION OF CONGRESS

INTRODUCTION

The Joint Committee on the Organization of Congress submits herewith its report of recommended changes in the two Houses of Congress.

* * * * *

1. Reorganization of Senate Committees

Recommendation: That the 33 standing committees of the Senate be reorganized into 16, substantially as proposed by Senator La Follette.

Your committee, after studying many proposals for committee consolidation, believes that the recommendation for consolidating the 33 standing Senate committees into 16, based on Senator La Follette's proposal, offers the best chance for improving the committee structure of the upper House.

Under this plan, each Senator would be limited to membership on two standing committees. By permitting concentration on two major committee activities, much of the present waste of time and scattered attention would be avoided. Each committee would have work of sufficient importance to justify specialization in its particular lines of activity. Each standing committee should have power to act jointly with the corresponding committee of the House of Representatives.

Therefore, your committee recommends consolidation of existing Senate standing committees as follows:

Existing committees	*Reorganized committees*
Agriculture and Forestry	Agriculture.
Appropriations	Appropriations.
Audit and Control	Rules and Administration of the Senate.
Enrolled Bills	
Library	
Printing	
Privileges and Elections	
Rules	
Banking and Currency	Banking and Currency.
Finance	Finance.
Education and Labor	Labor and Public Welfare.
Finance (social security jurisdiction)	
Claims	Claims.[1]
Commerce	Interior, Natural Resources, and Public Works.
Indian Affairs	
Interoceanic Canals	
Irrigation and Reclamation	
Mines and Mining	
Public Buildings and Grounds	
Public Lands and Surveys	
Territories and Insular Affairs	
Civil Service	Civil Service.
Post Offices and Post Roads[2]	
District of Columbia	District of Columbia.[1]
Expenditures in Executive Departments	Expenditures in the Executive Departments.
Military Affairs	Armed Services.
Naval Affairs	
Pensions	Veterans' Affairs.
Finance (veterans' jurisdiction)	
Foreign Relations	Foreign Relations.
Interstate Commerce	Interstate Commerce.
Manufactures	
Patents	
Judiciary	Judiciary.
Immigration	

3. Jurisdiction of Committees

Recommendation: That House and Senate rules be amended to define clearly the jurisdiction of each reorganized committee so as to avoid overlapping and duplication and conflicts of jurisdiction.

Reorganization of the committees as recommended above will require a revision of the rules of the two Houses so as clearly to define the jurisdiction of the new standing

[1] These two committees to be abolished after District self-government and judicial or administrative settlement of claims, recommended below, have been approved and effected.

[2] The post roads phase of this committee's work to be absorbed by the new Committee on Interior, Natural Resources, and Public Works.

committees. It is recommended that, as this is done, the jurisdiction of each reorganized committee be clearly defined so that overlapping and duplication will be eliminated. The definitions should enumerate the activities covered and describe their scope in terms of subject matter of legislation as well as the administrative organization of the Federal Government so that disputes over jurisdiction will be minimized or eliminated.

The major objective or predominant character of a bill, in the opinion of the presiding officers of the Senate and the House, should be controlling in determining the reference of bills to committees. We recommend the exercise of more care in the reference of Senate bills. A bill should be referred without regard to the author's service on any particular committee seeking jurisdiction when its subject matter does not normally lie in the defined province of that committee.

In redefining the jurisdiction of committees, great care should be taken clearly to resolve existing conflicts by specifying which committee shall have jurisdiction.

4. Legislative Oversight by Standing Committees

Recommendation: That the standing committees of both Houses be directed and empowered to carry on continuing review and oversight of legislation and agencies within their jurisdiction; that the power of subpena be given them; and that the practice of creating special investigating committees be abandoned.

One of the most difficult problems studied by your committee was that of improving the relationship between Congress and the executive departments of Government. This was ordered in the joint resolution under which we have been operating and appears to your committee to be one of the important phases of our study.

While the Constitution directed the separation of powers between the executive and legislative branches, it did not intend them to go separate ways and in opposite directions. Each year the gulf between Capitol Hill and the depart-

ments widens. And without effective legislative oversight of the activities of the vast executive branch, the line of democracy wears thin. Only one man out of the 3,000,000 Federal employees is elected by and is responsible directly to the people.

Composed of the directly elected representatives of the people, Congress needs to improve its lines of communication, its relationships, its understanding of the departments. At present there is no regular machinery of cooperation between them, aside from inadequate informal conversations or correspondence or a full-dress investigation, by which the common problems of governmental policy can be surveyed.

Vast powers are often necessarily delegated to governmental agencies. Sometimes the laws are not clear or specific and sometimes a problem defies specific legal description and adequate limitation. A clear and continuing understanding of the objectives and methods of the departments should be achieved.

We feel that this oversight problem can be handled best by directing the regular standing committees of the Senate and House, which have such matters in their jurisdiction, to conduct a continuous review of the agencies administering laws originally reported by the committees. Frequent consultation with and reporting to the committees would greatly improve relationships between the executive and legislative branches.

Such review might well include a question period by the committee arranged with the help of a greatly improved committee staff. By this method an open channel of complaints of agency shortcomings or abuses of authority could be maintained so as to furnish all Members of Congress with a clearinghouse for bringing complaints to the attention of administrators through the proper legislative committees.

Directing the regular standing committees to carry on this supervisory function appeals to your committee as a better method than the appointment of numerous select investigating committees when situations have grown so diffi-

cult as to arouse public demand for correction or special study. We recommend that the practice of creating special committees of investigation be abandoned.

Each of the reorganized standing committees should be given the power of subpœna and should be authorized to undertake studies of matters within its jurisdiction either by full or subcommittee action. By directing its standing committees to perform this oversight function, Congress can help to overcome the unfortunate cleavage between the personnel of the legislative and the executive branches.

* * * * *

5. Excerpts From Senate Report No. 1400, 79th Cong., 2d Sess. (pp. 1-24)

Calendar No. 1427

SENATE

79th Congress
2d Session

Report
No. 1400

LEGISLATIVE REORGANIZATION ACT OF 1946

May 31 (legislative day, March 5), 1946.—
Ordered to be printed

MR. LA FOLLETTE, from the Special Committee on the Organization of Congress, submitted the following

REPORT

* * * * * * * * * *

Determining policy

Cited as the Legislative Reorganization Act of 1946, S. 2177 is designed to reconvert our inherited and outmoded congressional machinery to the needs of today. One group of provisions deals with strengthening the policy determining function of Congress. Because of the volume and specialized character of the legislative business, Congress has logically delegated the initial work of policy making to standing committees of its Members. These committees have had a long and useful history, some of them dating back to the early days of the Republic. There have been

several major and minor reorganizations of the congressional committee system through the years, as new problems have arisen and old ones have disappeared. The system has not been revamped to meet modern needs and conditions, however, since 1921. It is now in need of a complete overhaul to enable Congress to handle efficiently the expanding problems of the postwar world.

Today there are more than twice as many standing committees in the Senate as there are principal provinces of public policy. Responsibility for legislative action is scattered among 33 little legislatures which go their own way at their own pace and cannot act in concert. Their jurisdictions are undefined in the Senate rules, and there are many committees functioning in the same problem areas. For example, three Senate committees deal with problems of commerce and industry, five deal with public land problems, and six with the rules and administration of the Senate. Furthermore, some committees are inactive and seldom or never meet.

To remedy this crazy-quilt pattern, S. 2177 would replace our jerry-built committee structure with a simplified system of standing committees corresponding with the major areas of public policy and administration and having authority to hold joint hearings with the parallel committees of the House of Representatives on matters of common interest. (See chart.) The correlation of the committee systems of the two Chambers with each other would facilitate joint action on specific measures by means of joint hearings. It would also increase the efficiency of the committee structure, facilitate closer liaison between the two Houses, and economize the time of busy legislators and administrators alike. And the coordination of the congressional committee system with the pattern of the administrative branch of the National Government would improve the performance by Congress of its legislative and supervisory functions, provide direct channels of communication and cooperation between the two branches, promote more harmonious and unified action in the development of public policies, and go a long way to bridge the gap be-

tween the legislative and executive branches of the Government.

* * * * * * * * * * *

S. 2177 would also define the jurisdiction of each reorganized committee so as to avoid jurisdictional disputes between them. It would expand the present meager staff facilities of our standing committees, which are the real workshops of Congress; permit each committee to appoint four experts in its field; and strengthen the legislative reference and bill-drafting services which are our own unbiased research and legal arms. The bill would also authorize each senatorial and congressional office to employ a high-caliber administrative assistant to perform nonlegislative duties and thus allow Members more time for the study and consideration of national legislation.

* * * * * * * * * * *

Oversight of administrative performance

A third group of provisions in the bill is designed to strengthen congressional surveillance of the execution of the laws by the executive branch. Congress has long lacked adequate facilities for the continuous inspection and review of administrative performance. We often delegate the rule-making power to administrative departments and commissions, without making any provision for follow-up to see if administrative rules and regulations are in accord with the intent of the law. Several of the postwar acts, for example, require certain agencies to submit quarterly reports to Congress, but assign the responsibility for scrutinizing these reports to no legislative committees.

To remedy this situation, S. 2177 would authorize the standing committees of both Houses to exercise continuous surveillance of the execution of the laws by the administrative agencies within their jurisdiction. Armed with the power of subpena and staffed with qualified specialists in their respective provinces of public affairs, these committees would conduct a continuous review of the activities of the agencies administering laws originally reported by the legislative committees. The reconstructed standing committees will, it is hoped, roughly parallel the reorganized

administrative structure of the executive branch of the Government and will be utilized as vehicles of consultation and collaboration between Congress and the corresponding administrative agencies within their respective jurisdictions.

Under this arrangement, it will no longer be necessary to create special committees of investigation from time to time. Sporadic investigations of the conduct of public affairs in the past have often served a salutary purpose by exposing administrative incompetence or corruption and by improving the execution of the laws. But they have lacked continuity and have not provided the members of standing committees with direct knowledge of the information they have gathered. In cases where legislative action is indicated, standing committees find it necessary to do much of the work over again. S. 2177 proposes, therefore, to ban the use of special committees hereafter.

As a further check upon the financial operations of the Government and its care in handling public funds, the bill authorizes and directs the Comptroller General to make administrative management analyses of each agency in the executive branch, including Government corporations. Such analyses, with those made by the Bureau of the Budget, will furnish Congress a double check upon the economy and efficiency of administrative management. Reports on such analyses would be submitted by the Comptroller General to the Expenditures, Appropriations, and appropriate legislative committees, and to the majority and minority policy committees, of the two Houses.

* * * * * * * * * * *

SECTION BY SECTION ANALYSIS

Introductory Matter

The matter preceding title I of the bill provides a short title for the bill, namely the "Legislative Reorganization Act of 1946"; sets up a table of contents; and provides the usual separability clause.

* * * * * * * * * * *

Section 101. Rule-making power of the Senate and House

Inasmuch as this title, as indicated, makes changes in the rules of the two Houses it is provided in this section that these provisions are enacted as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules shall supersede other rules only to the extent that they are inconsistent therewith. It is further provided that these provisions are enacted with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

This procedure will be recognized as that provided with regard to congressional action on resolutions under recent reorganization acts.

Part 1. Standing Rules of the Senate

Section 102. Standing committees of the Senate

This section amends rule XXV of the Standing Rules of the Senate relating to standing committees. In short, it provides for 16 standing committees in lieu of 33 under existing rules, fixes the membership of each such standing committee at 13 Senators, in lieu of the varying memberships of existing committees, and specifies in considerable detail, by subject matter, the jurisdiction of each such committee; a matter not provided for under existing rules except in isolated instances.

It is not the purpose of this report to present the considerations which moved the committee in each case in distributing the rather imposing list of subjects for legislative consideration among the various committees. It is sufficient to say that the assignments were made as nearly as may be on a functional basis, although the committee is frank to concede, and it is believed the Senate will appreciate, that such a rule could not be followed to the letter. However, the committee has made an earnest effort to set up a workable committee structure.

It will be noted that whereas the report made pursuant to House Concurrent Resolution 18 recommends a Committee on Interior, Natural Resources, and Public Works in which would be consolidated some eight Senate committees, your committee felt that this committee would be heavily overburdened and recommends instead the distribution of this jurisdiction to two committees, namely, a Committee on Public Lands and a Committee on Public Works.

Although, as has been indicated, the committee has deemed it wise not to explain in detail the assignment of the various subject matters, the following tables, first, will suggest in a general way the consolidation effected insofar as it affects the status of the existing standing committees of the Senate and, second, will show the jurisdiction by subject matter under present committee structure and under the proposed realinement.

Table I.—*Consolidation of Senate standing committees*

Existing Committees	Reorganized Committees
1. Agriculture and Forestry	1. Agriculture and Forestry.
2. Appropriations	2. Appropriations.
3. Military Affairs	3. Armed Services.
4. Naval Affairs	
5. Banking and Currency	4. Banking and Currency.
6. Civil Service	5. Civil Service.
7. Post Office and Post Roads	
8. District of Columbia	6. District of Columbia.
9. Expenditures in Executive Departments	7. Expenditures in Executive Departments.
10. Finance	8. Finance.
11. Foreign Relations	9. Foreign Relations.
12. Interstate Commerce	10. Interstate and Foreign Commerce.
13. Commerce	
14. Interoceanic Canals	
15. Manufactures	
16. Judiciary	11. Judiciary.
17. Patents	
18. Immigration	12. Labor and Public Welfare.
19. Education and Labor	
20. Public Lands and Surveys	13. Public Lands.
21. Mines and Mining	
22. Territories and Insular Affairs	
23. Irrigation and Reclamation	
24. Indian Affairs	
25. Public Buildings and Grounds	14. Public Works.
26. Rules	15. Rules and Administration.
27. Audit and Control	
28. Library	
29. Privileges and Elections	
30. Printing	
31. Enrolled Bills	
32. Pensions	16. Veterans' Affairs.
33. Claims	(Abolished.)

Table II.—*Jurisdiction of present and proposed committees*

Subject	Present committee	Proposed committee
(g) (1) Committee on Expenditures in the Executive Departments, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, and other *matters relating to the following subjects:*		
(A) Budget and accounting measures, other than appropriations.	Expenditures in the Executive Departments	Expenditures in the Executive Departments
(B) Reorganizations in the executive branch of the Government.	Judiciary	Do.
(2) Such committee shall have the duty of—		
(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;		Do.
(B) studying the operation of Government activities at all levels with a view to determining its economy and efficiency;	----------	Do.
(C) evaluating the effects of laws enacted to reorganize the legislative ~~—and—~~ executive branches of the Government;	----------	Do.
(D) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.	----------	Do.
(h) Committee on Finance, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, *and other matters relating to the following subjects:*		
1. Revenue measures generally	Finance	Finance.
2. The bonded debt of the United States	do	Do.
3. The deposit of public moneys	do	Do.
4. Customs, collection districts, and ports of entry and delivery.	do	Do.
5. Reciprocal trade agreements	do	Do.
6. Transportation of dutiable goods	do	Do.
7. Revenue measures relating to the insular possessions.	do	Do.

Table II.—*Jurisdiction of present and proposed committees*—Continued

Subject	Present committee	Proposed committee
(k) Committee on the Judiciary, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, *and other matters relating to the following subjects:*		
1. Judicial proceedings, civil and criminal, generally.	Judiciary	Judiciary.
2. Constitutional amendments	do	Do.
3. Federal courts and judges	do	Do.
4. Local courts in the Territories and possessions.	do	Do.
5. Revision and codification of the Statutes of the United States.	do	Do.
6. National penitentiaries	do	Do.
7. Protection of trade and commerce against unlawful restraints and monopolies.	do	Do.
8. Holidays and celebrations	do	Do.
9. Bankruptcy, mutiny, espionage, and counterfeiting.	do	Do.
10. State and Territorial boundary lines	do	Do.
11. Meetings of Congress, attendance of Members, and their acceptance of incompatible offices.	do	Do.
12. Civil liberties	do	Do.
13. Patents, copyrights, and trade-marks	Patents	Do.
14. Patent Office	do	Do.
15. Immigration and naturalization	Immigration	Do.
16. Apportionment of Representatives	Commerce	Do.
17. Measures relating to claims against the United States.	Judiciary	Do.
18. Interstate compacts generally	do	Do.
(l) Committee on Labor and Public Welfare, to consist of 13 Senators, to which committee shall be referred *all proposed legislation*, messages, petitions, memorials, and *other matters relating to the following subjects:*		
1. Measures relating to education, labor, or public welfare generally.	Education and Labor.	Labor and Public Welfare.
2. Mediation and arbitration of labor disputes.	do	Do.
3. Wages and hours of labor	do	Do.
4. Convict labor and the entry of goods made by convicts into interstate commerce.	Judiciary / Interstate Commerce.	Do.
5. Regulation or prevention of importation of foreign laborers under contract.	Immigration	Do.
6. Child labor	Education and Labor.	Do.
7. Labor statistics	do	Do.
8. Labor standards	do	Do.
9. School-lunch program	Agriculture	Do.
10. Vocational rehabilitation	Education and Labor	Do.

Table II.—*Jurisdiction of present and proposed committees*—Continued

Subject	Present committee	Proposed committee
11. National social security, except revenue measures relating thereto.	Finance	Do.
12. Railroad labor and railroad retirement and unemployment, except revenue measures relating thereto.	Interstate Commerce.	Do.
13. United States Employees Compensation Commission.	Education and Labor.	Do.
14. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital; and St. Elizabeths Hospital.	District of Columbia.	Do.
15. Public health and quarantine	Education and Labor.	Do.
16. Welfare of miners	Mines and Mining.	Do.

Section 128. Legislative oversight by standing committees

In effect, this section directs each standing committee of the Senate and the House to exercise continuous surveillance of the execution by the administrative agencies concerned of laws within the jurisdiction of the respective committees.

* * * * * * * * * * *

Section 205. Committee staffs

This section authorizes each standing committee to appoint four professional staff members (in addition to the clerical staffs), who are to be appointed on a permanent basis upon the recommendation and certification of the Director, without regard to political affiliations and solely on the basis of fitness to perform the duties of the office. These staff members may not engage in any work other than committee business and no other duties may be assigned to them.

In the case of the Committees on Appropriations, each such committee and each subcommittee thereof is to be provided with a professional staff, two members of which shall be assigned to the chairman of the committee and each subcommittee thereof and two members to the ranking minority member of each such committee and subcommittee thereof.

* * * * * * * * * * *

Section 211. Administrative management analyses by Comptroller General

This section authorizes and directs the Comptroller General to make an administrative management analysis of each agency in the executive branch, to enable Congress to determine whether public funds have been economically and efficiently administered and expended. Reports on such analyses are to be submitted to the Committees on Expenditures in the Executive Departments, the Appropriations Committees, the legislative committees having jurisdiction over legislation relating to the operations of the respective agencies, and each of the majority and minority policy committees.